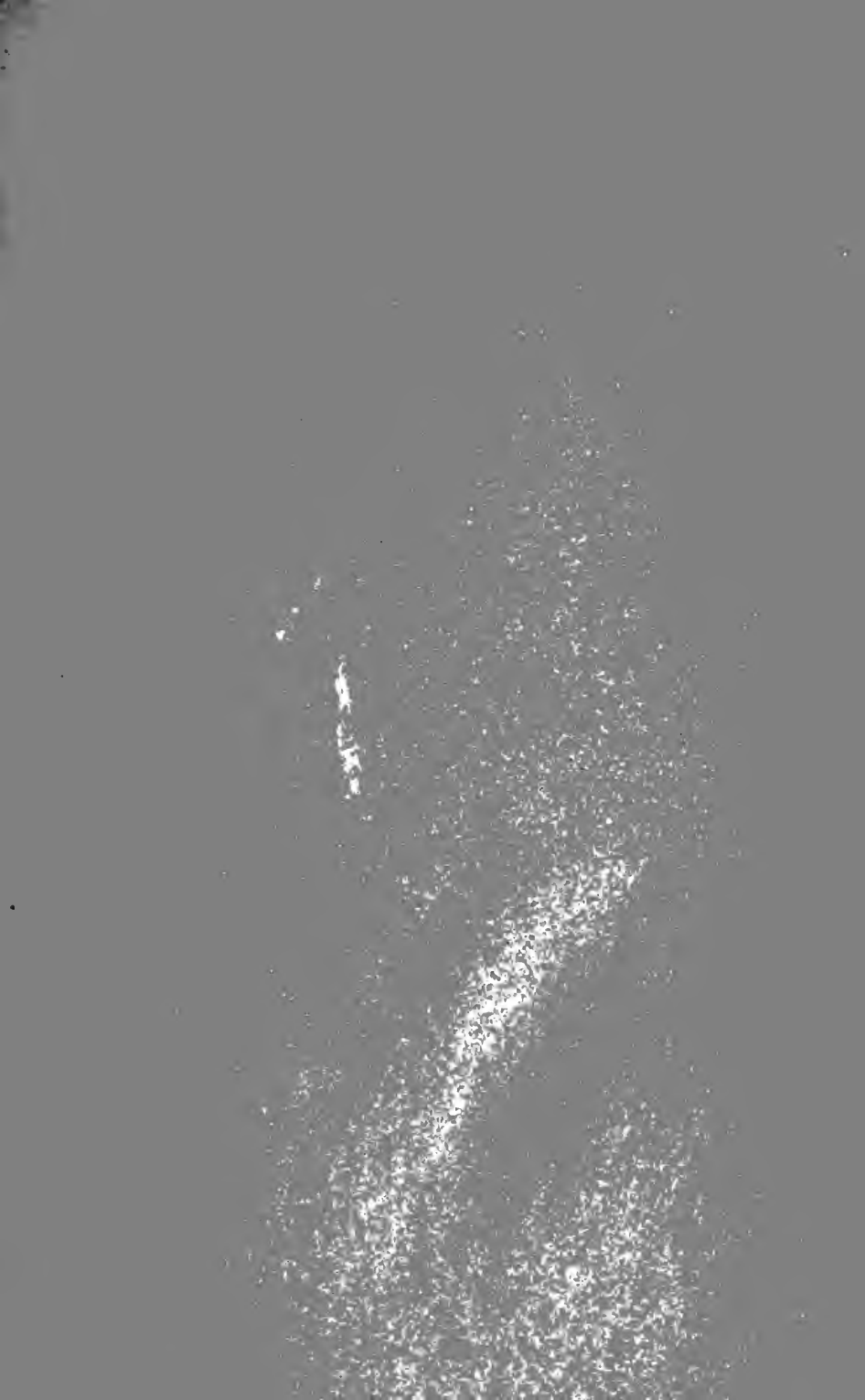
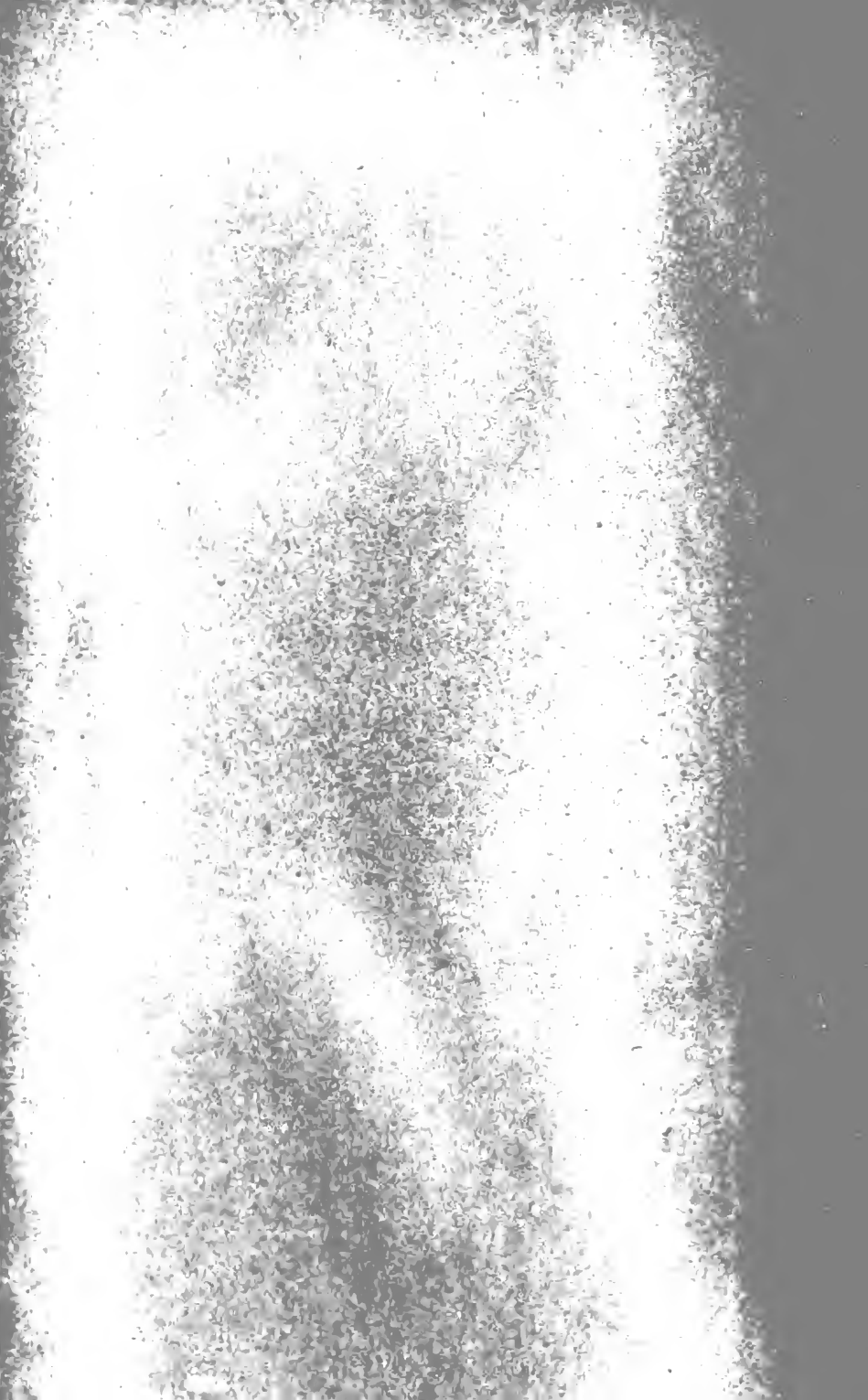
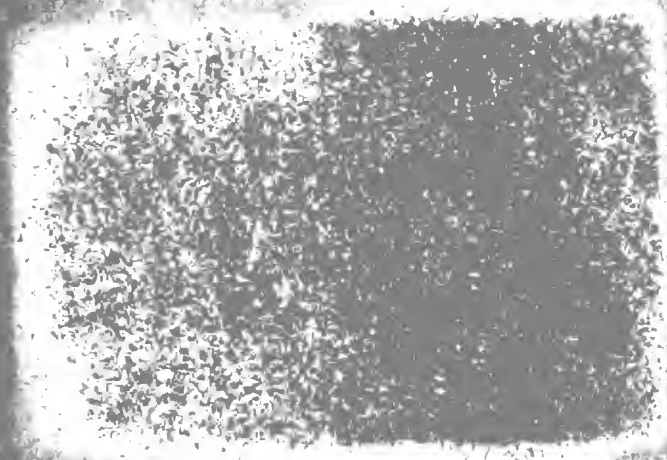


PRESENTED
TO
THE UNIVERSITY OF TORONTO
BY

Prime Minister of Cape Colony







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RECORDS OF THE CAPE COLONY.



RECORDS OF THE CAPE COLONY

From JANUARY to JUNE 1824.

COPIED FOR THE CAPE GOVERNMENT, FROM THE
MANUSCRIPT DOCUMENTS IN THE PUBLIC
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BY

GEORGE M^cCALL THEAL, D.LIT., LL.D.,
COLONIAL HISTORIOGRAPHER.

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RECORDS OF THE CAPE COLONY.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

COLONIAL OFFICE, LONDON, 11th January 1824.

MY LORD,—I do myself the honor to transmit to your Lordship the Copy of a Letter which has been addressed to this Department by the Reverend Doctor James Ross, and other Ministers of the Church of Scotland, recommending to my notice Mr. George Morgan, whom they consider to be a Gentleman who will prove well qualified to discharge the duties of a Minister of the Reformed Church at the Cape of Good Hope. And I also transmit for your Lordship's information the accompanying copy of the answer which I have caused to be returned to Doctor Ross, and by which your Lordship will observe that I have sanctioned the preparation of Mr. George Morgan for the discharge of the duties of such a situation.

I have &c.

(Signed) BATHURST.

[Original.]

Letter from LORD CHARLES SOMERSET *to* R. WILMOT, ESQRE.

CAPE OF GOOD HOPE, 13th January 1824.

SIR,—Having upon receipt of your Letter of the 30th September 1822, with enclosures from the Baron Fagel, called upon the Orphan Board at this Place to make the necessary

enquiry relative to the death of Jacques Zacharias Bergeon, a Soldier, belonging to a Regiment of Dutch Jagers, said to have come to this Colony in the year 1802; I have now the honor to transmit to you, for Earl Bathurst's information, a Copy of a Report made to me by the Orphan Board on this Case, from which you will perceive that the Board has been unsuccessful in obtaining the information required. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure in the above.]

ORPHAN CHAMBER, 31st December 1823.

SIR,—In compliance with the tenor of your letter of the 28th January last, requesting information relative to the death of Jacques Zacharias Bergeon a Soldier belonging to a Regiment of Dutch Jagers which came to the Colony in the year 1802, We have the honor to state for the information of His Excellency the Governor, that not finding the death of said Bergeon, or his Will registered in this Office, we applied to the several Landdrosts of the Respective Country districts for the information required, but we regret to say, that our researches have been unsuccessful, for it does not appear that a Man of that name has ever been known in any of the districts, so that we are to conclude that said Bergeon did not die within the Colony, as in that case his death must have come to the knowledge of the proper authorities. We have &c.

The Board of Orphan Masters.

(Signed) J. A. TRUTER.

[Copy.]

Letter from the Colonial Secretary to the Landdrost of Albany.

COLONIAL OFFICE, 15th January 1824.

SIR,—I have received and laid before His Excellency the Governor your letter of the 24th ultimo, in reply to that part

of my communication of the 22nd October last which respects those heads of parties of Settlers whose names are stated in the list No. 2 which accompanied it, and His Excellency having been pleased to approve of your several suggestions, has directed that titles to the locations as measured by Mr. Knobel shall be forthwith prepared for Messrs. Arthur Barker, Samuel Liversage, Daniel Mills, Nathaniel Morgan, William Owen, Thomas Phillips (Lampeter), and Benjamin Leech, the last mentioned being the person who remained on Mr. Perkins' location. These titles will be sent to you for delivery as the last were, as soon as completed.

His Excellency has further decided that W. Clarke's location be ceded to John Marshall, Jeremiah Honey, Henry Marshall, Richard White, William Wentworth, Henry Brooks, Thomas Campkin, and the widow of the late William Clarke. That William Cock's location shall be granted to the twenty-one adults remaining thereon, of whose names it will therefore be necessary that you transmit a list to this office, and that the location of W. Holder be divided among W. Holder, Wm. Hiles, James Powell, and Alexander Kidwell, of all which subdivisions separate diagrams will be required here as soon as possible, in order that titles may be made out. With respect to the remaining individuals mentioned in your letter, to whom you recommend certain portions of land to be granted, I am to call upon you (with reference to my letter above alluded to) to cause such allotments to be measured and the diagrams thereof forwarded to this office, in order that titles may be prepared accordingly. I have &c.

(Signed) C. BIRD.

[Original.]

*Letter from the REVEREND FRANCIS McCLELAND to
the BISHOP OF WATERFORD.*

CLAN WILLIAM, SOUTH AFRICA, 15th January 1824.

MY LORD,—It is upwards of three years since I took the opportunity of thanking your Lordship for the very flattering character you were so kind as to give me, when looking for the appointment which I now hold.

From various unforeseen causes the settlers have entirely failed, and out of one hundred and twenty two families that arrived here with me, only six remain.

I have hitherto endeavoured to bear up against the manifold hardships attending every man on first setting foot in a strange country, but as my Countrymen have abandoned their locations and are now scattered all over the Colony, the ties that bound me to Clan William are in a great degree dissolved.

There are many circumstances to deter the English from coming to this immediate district. It is now ten o'clock and your Lordship will perhaps scarcely credit me when I inform you that the thermometer is upwards of one hundred, that for want of servants or mechanics to build, we are frequently obliged to cook our own victuals exposed to such a burning sun, that for three months last year myself and family could with difficulty endure the light, in consequence of ophthalmia, and that when this or any other sickness overtakes us, we are obliged to let them run their course, being nearly one hundred miles distant from medical aid.

The poorest curacy in Ireland would be preferable to our present situation, but leaving home out of the question, if I might hazard an opinion there are many places, Stellenbosch, Graaff Reinet, the Paarl, where an English Clergyman could be much more usefully employed than in this remote place, as there are many English families residing there and no Episcopal Church whatever. Should a change however be impracticable, our comforts here would be greatly increased could His Excellency be prevailed on to accommodate us with a couple or even one prize negro as a servant, and a small house.

Emboldened by the disposition your Lordship has already evinced toward myself and others of your probationers, I have presumed to give you some insight into our situation, assured that were your Lordship's influence exerted on my behalf with the Earl Bathurst or His Excellency Lord C. Somerset, it would soon operate to our advantage.

I hope your Lordship will pardon this liberty. Here I am a perfect stranger, but were I even at home where I ought to have many a fostering hand, I feel I could not apply to any one with such hopes of success, as the Bishop of Waterford.

I have &c.

(Signed) F. McCLELAND.

[Original.]

Letter from LIEUTENANT T. C. WHITE *to the* COMMISSIONERS
OF ENQUIRY.

CAPE TOWN, *January 15th 1824.*

GENTLEMEN,—Being extremely desirous to avoid the expense of an unnecessarily prolonged residence in Cape Town, I take the liberty to request that you will have the goodness to allow me to be informed of the earliest moment at which I may leave the Colony without prejudice to the case which I had lately the honor to submit for your consideration.

I beg leave further to request, in reference to the injurious language of some of His Excellency the Governor's communications through the Colonial Secretary, and to your decision on my request for an investigation into the circumstances to which it related, that you will have the goodness to put me in possession of some documents, through which I may be enabled to bring the subject under the notice of the Government in England, free from the objections and difficulties which a supposed silence in this country might occasion. I have &c.

(Signed) T. C. WHITE.

[Copy.]

Letter from the COMMISSIONERS OF ENQUIRY to LIEUTENANT COLONEL BIRD.

UITENHAGE, 18th January 1824.

SIR,—A representation having been made to us by F. I. Potgieter, an Inhabitant of this District, that he had been driven by the Caffres in the year 1819 from an estate named “Ockert Heyn’s Post,” which he held in the Zuurveld, that it had been re-occupied for him on the retreat of the Caffres, but that he heard afterwards that it was to be given to H. O. Lange; and the said Potgieter having stated to us that he has successively addressed three memorials to the Government, praying for Land to be granted to him in compensation for his losses, but that he has received no answer to either of them, we request accordingly that you will be so good as to inform us whether these Memorials have been presented to His Excellency the Governor, and what the decision of His Excellency may have been.

We take this opportunity also of requesting that you will be pleased to inform us whether His Excellency’s decision may have been taken upon the memorials of J. A. Landman and C. P. Landman, stated to us to have been addressed to him on the 15th September 1821 and renewed by them on the 31st January 1822. We have &c.

(Signed) JOHN THOMAS BIGGE,
W. M. G. COLEBROOKE.

[Office Copy.]

Letter from EARL BATHURST to LORD CHARLES SOMERSET

COLONIAL OFFICE, LONDON, 19th January 1824.

MY LORD,—I have the honor to acknowledge the receipt of your Lordship’s dispatch No. 51 of the 11th September last, tating that you had been under the necessity of throwing

upon the Public Treasury the expence of completing a road which had been in part executed by the Magistracy of the district of Stellenbosch, and soliciting my sanction for an expenditure of £2500 which this work would require.

In replying to your Lordship on this occasion it is necessary that I should recall your attention to my dispatch of the 21st January last, in which you are enjoined to continue in the strict observance of the instructions of the Lords Commissioners of His Majesty's Treasury of the 18th March 1816, which provide (clause 18) that no service shall be undertaken by your Lordship which should cause an expenditure above £200 sterling unless you had previously received the sanction of His Majesty's Government. Looking therefore to the amount of the sum required to complete the work now under consideration, and advertng to the expediency of enforcing the principle of the Instructions above referred to, I feel it my duty to inform Your Lordship that I must withhold my Sanction to the measure you have adopted until I shall have received such further information from your Lordship as may show that a paramount necessity rendered the execution of the service unavoidable and that the urgency of the case has compelled your Lordship to act under the 19th clause of the Instructions of the Lords Commissioners, which specifies that if an Emergency shall arise in which a previous reference could not be made to this Country for a regular authority for incurring any contingent charge (exceeding £200) you are to authorise the same, stating in the fullest manner to the Commissioners of the Treasury and to the Secretary of State for the time being the grounds upon which you have felt it necessary to deviate from the antecedent clause of their Lordships' Instructions.

I have only further to observe that detailed estimates of the work should accompany your Lordship's explanatory dispatch.

I have &c.

(Signed) BATHURST.

[Copy.]

*Letter from the COMMISSIONERS OF ENQUIRY to LIEUTENANT
COLONEL BIRD.*

UITENHAGE, 19th January 1824.

SIR,—We have the honor to acknowledge the receipt of your letter of the 9th Instant, in answer to our inquiry that we had the honor to address to you requesting the claims of a soldier of the Dutch East India Company to his right of Burghership, by virtue of the articles of Capitulation signed by Sir David Baird at the last capture of this settlement. By the reference which thro' your kindness we have been enabled to make to copies of that Document, we find that the case of the Soldier does not come within any of the concessions of Privilege that were secured at the capitulation to the other classes of the inhabitants; but as it appears by the other documents which you have been good enough to communicate to us, to have been deemed proper by His Majesty's Secretary of State that the admission to the rights of Burghership of aliens who have resided in the Colony 5 years uninterruptedly, should be subject to the payment of a certain fine fixed by the Colonial Government we believe at the sum of 250 Rixdollars, we beg leave to trouble you with an inquiry whether you are aware of any instance in which this fine may have been reduced or dispensed with in consideration of the poverty of the applicant.

We have &c.

(Signed) JOHN THOMAS BIGGE,
W. M. G. COLEBROOKE.

[Original.]

*Letter from MR. WILLIAM PARKER to R. WILMOT
HORTON, ESQRE.*

PASSAGE WEST, 19th January 1824.

SIR,—I have had the honour to receive your letter of the 11th instant, stating it must rest with me to procure whatever corroborative statements may be necessary to support the charge I preferred against Colonel Bird.

Having given the address of Lord Howden and the Rev. Doctor Jones, and Mr. Dennis, the latter of whom was the first who informed me of Colonel Bird's hostility to the Protestant Religion, and as these respectable individuals I am certain will not flinch from the avowal of the facts they have told me, and which are so plainly stated in my affidavits, I have only to say that I cannot in justice to my distressed family incur any further expense, which I can by no means afford, to procure the corroborative statements to which I have so pointedly referred.

Every circumstance that has transpired from the Cape, respecting the condition of the settlers, especially the feeling report of the committee at Cape Town for their relief, dated in September last, an abstract of which is now before me in the *St. James' Chronicle* of the 13th January, confirms the soundness of my conduct. Considering this document as authentic, bearing the name of the Rev. Doctor Philip, to whose kind advice under God, I am mainly indebted for the preservation of the lives of my large family, I take the liberty to send to you, for the perusal of the Earl Bathurst, the second part of the pamphlet of "The Jesuits Unmasked," and I beg his Lordship's reference to pages 103, 110 and 111. Indeed the course I have to pursue is now so simple, as I have such a great manifestation in this report of my strong allegations, that I should be derelict in that duty, I owe to my God, to my country, and to my wife and children, did I relax in my arduous endeavours to bring the whole of the Cape emigration, the ensuing session, before, if not the cognizance of Parliament, at least the awful tribunal of public opinion.

Never, Sir, was a man better prepared by the possession of

facts than I am. In your letter of the 4th of March last, you attempt to exonerate the Colonial Government from all further responsibility, as I would not accept of a location in the Zureveld: Lord Bathurst, from the report of the benevolent committee at Cape Town, will now be able to judge what kind of country the Zureveld or Albany has proved.

Sir, it was on public grounds I had the honour to be introduced by the Government of Ireland to the Colonial Department in 1819, and it was public grounds that elicited his present Majesty's most gracious disposition towards me, therefore I am sure that the British public will be with me in that bold and manly part, it is now my determination to adopt.

I lost an immense property in the year 1810 and 1811, by orders in council, and with the assistance of some friends to whom I am indebted, I was enabled to proceed to the Cape, after experiencing many difficulties. It is due to these friends and to my immediate family connexions, it is due to my honour and character, that I should not yield one step to official men, who evidently persist in the most culpable errors. I have &c.

(Signed) WM. PARKER.

[Copy.]

Letter from MR. WILLIAM EDWARDS to LORD CHARLES SOMERSET.

25 LONG MARKET STREET,
CAPE TOWN, 22nd January 1824.

MY LORD,—As your Lordship is aware of the professional duty which necessarily leads me into misunderstandings with which I have no concern, and of the occasion from a duty to my Client that I adopt their sentiments and expressions, I feel it scarcely requisite to make any excuse to you for conducting a complaint against one of your Officers.

But I do feel it needful for my own sake in transmitting the duplicates of Mr. Cooke's Memorial through your Lordship to the Treasury to say that I do not enter into this business from choice. I told Mr. Blair what was advised by me in hopes that the affair might have been managed by a slight concession

on his part. And although I will never shrink from the performance of my duty to my Clients, there is no man who would do a duty which might be painful to your Excellency with more sorrow than myself, no man in the Colony more unwilling to thwart the measures of His Majesty's Government than I am, nor is there a man alive more willing to devote his life, his everything, to the honor or Service of his Sovereign or the sacred representative of a beloved King.

My Father, My Lord, had the happiness of serving His Majesty for years as a Captain of Dragoons, he was personally known to some of those before whom this Memorial may be laid. I have also the honor of being so known, therefore feel it absolutely imperative on me to write this letter that it may never be supposed I have swerved from the principles of loyalty and affection to Government in which I was educated.

The other Copy of the Memorial will be forwarded by post. And as Mr. Cooke is speedily departing for England he will pursue the affair in person before their Lordships with the assistance of Counsel. I have &c.

(Signed) W. EDWARDS.

[Copy.]

Letter from the Colonial Secretary to the Landdrost of Worcester.

COLONIAL OFFICE, 23rd January 1824.

SIR,—In reply to your letter of the 12th Instant enclosing a Copy of one from the Deputy Landdrost of Clan William, stating in reference to the late decision with respect to the Hantam Mountain, that he is informed that the Horse Sickness is not supposed to occur above once in seven years in the Hantam District, I am directed to acquaint you that His Excellency the Governor sees no necessity for the Hantam Mountain being kept useless in those years in which the Horse distemper does not prevail, but His Excellency is of opinion that among the regulations to be established when the Hantam Mountain shall have been surveyed and its capabilities ascertained, it

should be stipulated that the Inhabitants of the Hantam Field Cornetcy shall have a right of Commonage on this Mountain for Horses only, according to the extent of the Horse Stock which their respective places are calculated to support, paying a certain Stipend to Government for the Commonage, but that nevertheless the Mountain should be kept vacant every year until the season for apprehending the Horse distemper shall have passed. I have &c.

(Signed) C. BIRD.

[Original.]

Memorial of MESSRS. THOMAS MILLS *and* JOHN SAUNDERS.

To the Right Honourable the Earl of Bathurst, His Majesty's Secretary of State for the Colonial Department.

The humble Petition of Thomas Mills, Corn Chandler, and John Saunders, Slop Seller, of the New Road Saint George's East, Humbly Sheweth -

That your Petitioners respectfully request permission to submit the following facts to your Lordship's humane consideration, being fully persuaded that the extreme hardship of the case of those whom your Petitioners are about to represent, will not only excite a generous sympathy in their behalf, but also be considered a sufficient apology for their intruding themselves on your Lordship's attention.

That in the year 1819, Your Petitioners having had under their consideration the encouragements at that time held out by His Majesty's Government, to induce Individuals to Emigrate to the New Settlement in South Africa, came to the determination of, and did, at a very heavy expense, fit out their two Sons viz. Thomas Mills and John Saunders with a general assortment of Implements used in Husbandry, and other necessary articles for such an adventure; and after having paid the deposit money, and complying with all the other regulations required by your Lordship's directions, the said Thomas Mills and John Saunders joined Mr. Bailie's Party, and proceeded in the ship *Chapman* from the River

Thames, in the month of November in the year above-mentioned.

That on the arrival of the said vessel at Algoa Bay, they proceeded with the said party to their destination, and took possession of such Land as they were entitled to, under the Superintendence of the Government Agent appointed for that purpose. That on obtaining possession of the same, they commenced cultivating it, and in due time purchased such Cattle to stock their Farms with, as their circumstances and inclinations admitted of. It was at this period that they began to cherish the Hope that their most sanguine expectations would be realized, but your Petitioners were concerned to receive the sorrowful tidings of the failure of their first crops, but even this sad communication was accompanied with an assurance of their determination to persevere and wait with patient and firm expectation that their future efforts would be successful, but Alas ! their next crops met with a similar fate, those distressing and discouraging circumstances, combined with others equally unfortunate, could have but one effect upon the minds of these young and unhappy adventurers, the consequence of which was, that their accumulated misfortunes soon compelled them to give up their Land, and by this compulsory act (which they could not avoid) their prospects in the Colony are quite hopeless.

That for temporary relief under their pitiable situations, your Petitioners have sent out small supplies to them, but which are, in the very mode of transmission, rendered doubtful of ever reaching its destination, therefore, for this, and other reasons, this kind of support cannot be repeated, they will therefore have to struggle with their miserable circumstances, unaided by such extraneous assistance.

That after a lapse of three years, the said Thomas Mills and John Saunders, in order to avert the worst of calamities, viz. that of starvation, make application for a Pass to quit the Colony and be allowed to proceed to England ; but here again, the hand of misfortune visited them, the authorities of the Colony refused the necessary documents for that purpose, without assigning any cause for such a refusal, the lamentable result of which is, that they have for a long time past, been suffering the greatest privations. We beg leave most respect-

fully to remind your Lordship that it was expressly understood by all, before they left this Country, that they should after the expiration of three years, be at liberty to quit the Colony if they should think proper so to do.

That your Petitioners would cautiously avoid taking up your Lordship's valuable time by further details, yet they cannot suffer the present opportunity to pass by, without respectfully entreating a reference to the deplorable statements published in the *Morning Chronicle* of the 13th Inst., of the perilous situations of the Settlers in general, and which accounts have caused the most painful feelings in the minds of your Petitioners.

Your Petitioners do therefore most humbly pray, and confidently rely, on your Lordship's known humanity to interfere in their behalf, and that you will be pleased to cause an order to be forthwith sent out to the Government at Cape Town, to remove any obstacles that may be existing, and that the said Thomas Mills and John Saunders and his family may be permitted to proceed to England without further hinderance. And Your Petitioners (as in Duty bound) will ever pray.

9 NEW ROAD, ST. GEORGE'S EAST, 24th January 1824.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 26th January 1824.

MY LORD,—I do myself the honor to transmit to your Lordship the enclosed additional List of appointments which I have conferred, and encreases made in the Salaries of the Civil Servants during last year, as they contain Items in the ordinary expenditure of this Government which require your Lordship's particular sanction ; and anticipating your Lordship's ready approval thereof upon perusal of the satisfactory reasons given for their expenditure, I beg your Lordship will communicate the same to the Auditors of Colonial Accounts. I have &c.

(Signed) CHARLES HENRY SOMERSET.

The list is of an additional collecting clerk at the market, an additional overseer at Buck Bay Farm, a church clerk at Hot-tentots Holland, and increases in the salaries of two school-masters and a few others, chiefly connected with the post office.

[Original.]

Letter from the COMMISSIONERS OF ENQUIRY *to* LIEUTENANT
T. C. WHITE.

UITENHAGE, 27th January 1824.

SIR,—We beg to acknowledge the receipt of your letter of the 15th inst., and as it is not probable that the pressure of business in this district, and the numerous claims similar to your own that we are prepared to examine in the district of Albany will enable us to enter upon the investigation that you have solicited at as early a period as you seem to wish, we have no difficulty in stating to you that although we declined the investigation of the misunderstanding that took place between His Excellency Lord Charles Somerset and yourself from an impression that it was a matter purely of a personal nature, yet nothing has arisen out of it that will preclude us from proceeding in the investigation of your claims to a confirmation of the grant of land that was assigned to you, as well as to the augmentation that you have solicited, at as early a period as other engagements of a similar nature will permit.

We have &c.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

[Copy.]

*Letter from Residents at Bathurst to the Commissioners
of Enquiry.*

BATHURST, 27th January 1824.

GENTLEMEN,—We the undersigned most respectfully beg leave to represent the unfortunate situation, actual losses, and Serious disappointments occasioned us by the destruction of the Town of Bathurst.

In the early part of the year 1820 His Excellency the Acting Governor, General Sir Rufane Donkin, visited these Frontiers for the purpose of fixing upon the most eligible and central situation for a Drostdy Town in the new Settlement; which point being settled at Bathurst, a Provisional Magistrate was immediately appointed, a company of Soldiers stationed for the protection and further advancement of the Town, a Board of Landdrost and Heemraaden, and a Commissariat Establishment appointed and fixed; a Drostdy House commenced, and a full Court of Justice held; in short every movement tended to confirm the intentions of Government to make it the principal Town on the Frontier, and so general was this impression, that at a public Sale of the Government Erven held in the Month of June 1821, a number of Erven were sold at the unprecedented rate of from 500 to 1100 Rixdollars each.

Under these circumstances (we being the first inhabitants) were induced to expend very considerable Sums in building and other improvements, and had already established ourselves in our respective occupations under the idea of reaping those advantages naturally looked for and expected by those persons whose emulation and energy led them to become the first founders of a flourishing and opulent town; but alas it appears these expectations were only raised that we might more keenly feel the disappointments and misfortunes we were doomed to experience by the changes made on the arrival of His Excellency the present Governor.

The first step towards the destruction of the Town was the removal of the Seat of Magistracy to Graham's Town in the Commencement of the year 1822, which was shortly followed by

the removal of the Troops and the Commissariat Establishment, but notwithstanding these extremities we have still retained a degree of composure, comfort, and satisfaction from our remaining in some measure upon a level with the respective Locations, there having been a considerable portion of fine grazing ground attached to the Town, we were enabled to turn our attention to breeding and feeding Cattle, which has been carried on to an extent far beyond any Location in the Settlement; but now as a final stroke to the future benefit or advantage to either the Town or its few remaining Inhabitants, the most considerable and by far the most valuable part is taken from us, in consequence of which one individual has been put to the enormous expense of 65½ Rixdollars from his Cattle having trespassed on the above ground in going to drink of the water they had been accustomed to for these three years. Thus after having experienced these Calamities and distresses beyond what has generally been felt by the Community at large, lost near four years' labour and exertions, and actually expended many thousand Rixdollars, we at present remain the unfortunate occupants of only a house and small garden, even to which we cannot procure a Title without an additional Expense. We view with pleasure a field of Commerce opening by the probable navigation of the River Kowie, and the late alterations made with respect to the Government Farm at Somerset, which holds out encouragement both to the Farmer and Labourer by furnishing a Market for the produce of their industry, but it is melancholy to state that we are prevented from partaking of the general benefit likely to arise from these resources by the confined situation in which we are now placed both as to Land and our Finances, which have been exhausted in the manner above stated. That we are by no means upon a footing with the most unimportant Location in the District, and we have no hesitation in asserting that had our rights extended so far, or had there been the least encouragement held out to us, agricultural pursuits would have been carried to a much greater extent than is at present the case, but which is now stretched to our utmost boundary.

Upon these particulars we humbly beg your most serious consideration, and shall be most thankful for such assistance and relief as may be thought consistent with our various cases,

and which you may think requisite to recommend to His Excellency the Governor. We have &c.

(Signed) S. BIDDULPH,
JOHN B. BIDDULPH,
THOS. HEWSON,
JAMES CARNEY,
J. HARTLEY,
DOND. GUNN,
E. GRIFFITHS,
GEO. ANDERSON,
JAMES VICE,
EDWD. H. DELL,
WM. BOND.

[Copy.]

Letter from the COMMISSIONERS OF ENQUIRY *to* LIEUTENANT
COLONEL BIRD.

UITENHAGE, 28th January 1824.

SIR,—Having had occasion to refer to the Landdrost of Uitenhage to ascertain the result of an application stated to have been made by Mr. Bernardus Rens for a grant of land situated near the Sunday River, we have received from the Landdrost a copy of the Resolution of the Board of Landdrost and Heemraden transmitted to you on the 15th of January 1817, to which as we are informed there has been no reply, and that a second Memorial from Mr. B. Rens has also remained unanswered.

We request that you will have the goodness to inform us what may have been the decision of His Excellency the Governor upon these memorials, and in what manner the land in question may have been disposed of. We have &c.

(Signed) JOHN THOMAS BIGGE,
W. M. G. COLEBROOKE.

[Copy.]

*Letter from the ASSISTANT COLONIAL SECRETARY to
MR. GEORGE GREIG.*

COLONIAL OFFICE, 28th January 1824.

SIR,—I am directed by His Excellency the Governor to inform you that he has been pleased to fix the rate of Postage to be paid for the Paper you have established at One Skilling for each number sent to the Country districts. I am &c.

(Signed) P. G. BRINK.

[Copy.]

*Letter from LANDDROST CUYLER to the COMMISSIONERS OF
ENQUIRY.*

UITENHAGE, 28th January 1824.

GENTLEMEN,—I am honored with the receipt of your Letter of yesterday respecting the locating of Mr. Francis the Settler, and have the honor in reply to acquaint you that the first Settlers were located by Orders from the Colonial Office, fixing the spot, but latterly the Settlers heaped upon us faster than Mr. Knobel could sketch &c., when we were directed to set them down westerly of the last, &c., &c.

I enclose the letter I got respecting Mr. Francis, and the sketch I then held from the Surveyor of fit Places to place Settlers on, with the route to the same, and where you will see Mr. Francis' name marked. The directions he alluded to, to have got from Captain Evatt, was merely my directions, to be communicated to the Drivers of the Waggons and the party, where about they were to go, and when notice was sent to Graham's Town to the Deputy Landdrost to see them located.

I do not recollect to have ever seen Mr. Francis till some considerable time after he had been located, nor can I remember ever hearing from Mr. Knobel that Mr. Francis wished another place.

When Mr. Francis was going to Cape Town, some six or eight

months ago, he called upon me and shewed me his name on Mr. Knobel's Map, in a different place to where his Location was. The Error in the map I could not explain to him. Mr. Knobel might perhaps do that better. I have &c.

(Signed) J. G. CUYLER.

[Copy.]

Letter from MR. CHARLES BLAIR to LORD CHARLES SOMERSET.

CUSTOM HOUSE, CAPE TOWN, 28th January 1824.

MY LORD,—After returning my thanks to your Lordship for the communication of the Memorial of Mr. Cooke, I have in remarking upon it to state to your Lordship that in my official capacity I did in pursuance of the Act of the 47th Geo. 3rd and of the Order in Council apprentice the Prize Negro Jean Elie, captured in the *Victor*, to Mr. Samuel Murray. And that on the decease of Mr. Murray I gave over Jean Elie to Mr. W. W. Bird for his son-in-law Mr. Pegou, under whose care and protection I could place him satisfactorily for about six months, being the remainder of his term. I was ignorant of Jean Elie being let out to Messrs. Cooke and Thompson by Mr. Murray, or I should have objected to it, and in hiring this man whom I apprenticed for the sole use of Mr. Murray, Mr. Cooke by his own acknowledgment began by doing what was not allowed by me and persisted in his wrong by harbouring him after Mr. Murray's death and disobeying the Collector's order for removal. The act and order in council which enjoin an apprenticeship not exceeding 14 years do not require me to give reasons of preference, but I consider the man's service in a regular married family most beneficial, particularly at the close of the period. With regard to Mr. Cooke's History about the freedom of Jean Elie I know nothing. I received him after regular condemnation by the Court of Vice Admiralty, and do not consider it to be any part of my duty to scrutinize the acts of that Court, but must remark on the unjust conduct of Mr. Cooke, who convinced that Jean Elie was free, paid thirty-five rixdollars per month for six years to Mr. Murray and not to Jean Elie the Freeman.

With regard to the words charged by Mr. Cooke, the greater part is false, and it is also to be observed that the Court of Justice of this Colony takes cognisance and redresses every offence committed by one Individual against another, and that having been summoned before the Fiscal at the instance of Mr. Cooke, I duly attended and answered to the charge, which was abandoned by Mr. Cooke, I presume, with the view of forwarding thro' your Excellency a string of observations scurrilous, slanderous, and false in every respect. To assertions and charges thus originally attempted to be made clandestinely I forbear to make any reply other than by an immediate action at Law against Mr. Cooke in the Court of Justice, conscious that in the honorable performance of a duty extremely unpleasant from the Malice and rancour of disappointed Individuals, I have on all occasions to the best of my Judgement strictly adhered not only to the spirit, but even to the letter of the Acts of Parliament and Orders in Council in this Case provided.

I have therefore only to add my anxious hope that your Lordship will have the goodness to enable me to protect my character as a Servant of Government, by ordering the Public Prosecutor to receive my instructions and to proceed against Mr. Cooke in due course of Law. I have &c.

(Signed) CHARLES BLAIR, Collector of Customs.

[Original.]

Letter from SIR RUFANE SHAWE DONKIN *to* R. WILMOT
HORTON, ESQRE.

12 UPPER GROSVENOR STREET, *January 30th 1824.*

DEAR SIR,—I have just seen an article in this day's *Morning Post* by which I am led to infer that some attack has been made on His Majesty's Government, and on Lord Bathurst in particular, relative to the Settlers at the Cape of Good Hope.

This cannot refer to the strong article in the *Times* of yesterday, for in it there was no reference made either to his Lordship or the Government, and if any such attack such as

seems implied in the *Morning Post* has been made, I beg leave to say that I am quite ready to address you officially to say that whatever misfortunes may have befallen the Settlers no part of them *can* be attributed either to His Majesty's Government generally, or to the Secretary of State for the Colonies.

Nothing could be more ample, or indeed munificent than the manner in which the Settlers were sent out, nothing could exceed the foresight and anxious care manifested in all the Despatches and Instructions relative to them from the Colonial Office, and, with a consciousness of this, the Settlers were strongly and gratefully impressed. Moreover, when circumstances compelled me to make any immediate disbursement for their aid, it was sanctioned at home at once, nothing therefore can be more devoid of all foundation and Truth than such an attack as the *Morning Post* seems to be repelling.

I hope you will not think this an improper Intrusion of mine, but that you will attribute my troubling you to an anxious desire on my part to enable your Department (under which I once had the honor of serving, and towards which I feel both respect and obligation) to refute, should occasion be, any insinuations of the nature I have alluded to. I have &c.

(Signed) R. S. DONKIN.

[Copy.]

Letter from LIEUTENANT COLONEL BIRD *to the* COMMISSIONERS
OF ENQUIRY.

LIESBEEK COTTAGE, 30th January 1824.

GENTLEMEN,—I have been honoured by your letter of the 18th January, stating that a representation had been made to you by I. I. Potgieter on the subject of certain Lands called "Ockert Heyn's Kraal" granted to H. O. Lange, and representing that he had made three successive memorials to Government for lands in compensation for his losses without having received any answer thereto.

Being confined to my bed in consequence of a very serious accident, I directed the Inspector of Lands to make the neces-

sary inquiry into and examination of this subject, and I have the honor to enclose Mr. D'Escury's report to me hereon, of the accuracy of which I have no reason to be doubtful.

This report will at the same time answer your further query respecting the memorials of J. A. and C. P. Landman.

[I have &c.

(Signed) C. BIRD.

[Copy.]

Letter from LIEUTENANT COLONEL BIRD *to the* COMMISSIONERS
OF ENQUIRY.

LIESBEEK COTTAGE, 30th January 1824.

GENTLEMEN,—I have to acknowledge the receipt of your letter from Uitenhage dated 19th inst. in reply to mine of the 9th, in which I had the honor to enclose for your information the documents necessary to shew how and by what authority aliens might be admitted to the rights of Burghers in this Colony; and in reply to your further query, whether I am aware of any instance in which the fine of Rds. 250 payable on such admissions may have been reduced or dispensed with in consideration of the poverty of the applicant, I have the honor to state, that for the reason mentioned in my reply to your letter of the 18th, not having had it in my power personally to examine the books on this head, I desired the Assistant Secretary so to do, who has informed me that there is no instance such as you advert to.

A Burghership was however issued gratis to J. Tier, Messenger of the Colonial Office, in consequence of long and faithful Services. I have &c.

(Signed) C. BIRD.

[Copy.]

*Letter from the Assistant Secretary to Government
to the Fiscal.*

COLONIAL OFFICE, 30th January 1824.

SIR,—I am directed by His Excellency the Governor to forward to you herewith in original a letter transmitted to His Excellency by Mr. Edwards a Notary in Cape Town, styling himself the attorney to Mr. Launcelot Cooke, together with the Documents therein referred to. And as these Papers contain assertions injurious to the character of the Collector of His Majesty's Customs at this place, His Excellency desires that you will be pleased to refer to Mr. Blair, in order to obtain every information for prosecuting Mr. L. Cooke for defamation of a public Servant. I have &c.

(Signed) P. G. BRINK.

[Copy.]

Proclamation by LORD CHARLES SOMERSET.

Whereas by my Proclamation bearing date 5th July, 1822, it has been ordered and directed, that from and after the 1st Day of January, in the Year of Our Lord One Thousand Eight Hundred and Twenty-seven, the English Language shall be exclusively used in all Judicial Acts and Proceedings in the Supreme and Inferior Courts of this Colony ; and whereas the majority of the Population in the Albany District is now English, I have deemed it expedient, that so much of the aforesaid Proclamation of the 5th July, 1822, as may be considered to regard the Albany District, should be abrogated and repealed : —I do therefore hereby order and direct, that all Judicial Acts and Proceedings in the aforesaid District of Albany, which shall be entered upon, or commence on or after the first Day of March next, shall be carried on in the English Language ;—and I hereby further order and direct all Persons concerned to take due Notice hereof, and to conform themselves to the Provisions of this Proclamation.

And that no Person may plead Ignorance hereof, this shall be published and affixed in the usual manner.

God save the King !

Given under my Hand and Seal, at the Cape of Good Hope, this 30th Day of January, 1824.

(Signed) C. H. SOMERSET.

[Copy.]

Letter from MR. HENRY NOURSE to the COMMISSIONERS OF ENQUIRY.

CAPE TOWN, 30th January 1824.

GENTLEMEN,—I have the honor to acknowledge your communication of the 14th Inst., in which you state that you have received the instructions of Earl Bathurst to report to him whether any Public inconvenience is sustained by a Grant of Land made to me by the Acting Governor Sir Rufane Donkin on the Banks of the Kowie, and that as the opportunity will soon be afforded you of ascertaining those particulars with which Earl Bathurst is desirous of being informed, you will be glad to receive from me any explanation of the circumstances under which the Grant was made ; and you are pleased to say further, that it will afford you great satisfaction to bring to the knowledge of Earl Bathurst any claims I may have had to the liberal consideration of Government, and which His Lordship is already prepared to receive.

In affording you the information required as far as is in my power, it appears expedient that I should first set forth the nature of my Claim to the consideration of Government as leading to the grant of the ground in question ; at the same time I hope I may be pardoned for observing that while I am grateful for the favorable disposition of Government, I am aware of nothing in this Grant manifesting a consideration beyond that afforded to any other individual without any such claims, such, and much more extensive Grants being almost of every day occurrence throughout the Colony, and if I have

any advantage it is only in the choice of a position more applicable to my views.

In doing this it becomes necessary for me to state, that being established in the Wine Trade and general commercial Concerns in London, my connexion with the Cape commenced on the receipt of intelligence of the re-capture of the Settlement in the year 1806 ; when I despatched hither a vessel with supplies under the management of Mr. Kenneth Duncan as Supercargo. The result of this expedition was the establishment of Mr. Duncan here as my Agent, and our operations continued to be attended with success until his sudden death by a fall from his Horse in the year 1815, leaving his Widow, a Lady of the Colony, sole Executrix, and as it appeared or was assumed, without any intimation that he was only the agent of another ; from this circumstance the whole of a very considerable property became involved in dispute and litigation, and the deterioration and ultimate loss on what was recovered was great, and much remains unadjusted to this day. On this occasion my Brother in Law Mr. Christian assumed the management of the Establishment here under the firm of Nourse, Christian & Co., and our transactions were extensive, but a chain of unfortunate events succeeded, and we were never able to recover from the embarrassment commencing with the foregoing event, and my private resources at length failing to meet the tardiness of operations and Returns from hence, gave way, and I ultimately came out to the Colony in the year 1820 with the personal full powers of the Creditors under which the affairs of the House were wound up and finally closed.

It was during the period of these transactions, with views certainly of a private as well as of a public nature, that I continued one of the most, if not the only, watchful Member of the Commercial Community in London connected with this place, in suggesting to His Majesty's Government such alterations in the existing Laws protecting the interests of the Colony against the introduction of New Laws militating against them, and submitting to the Lords of Trade such encouragements to its productions as from time to time occurred to me ; and while I acknowledge with thankfulness the polite consideration and attention I at all times experienced from the Government

- Agent to the Colony, Mr. Courtney, and the zeal with which he met every proposition likely to prove beneficial, I am sure that he as well as Mr. Lack, Secretary to the Board of Trade (if I may not be allowed to appeal to Earl Bathurst himself and Mr. Robinson) will bear testimony to the trouble I have occasioned them in pursuing these objects.

It is difficult at this distance of space as well as of time, unprepared for such a requisition, to trace the various instances in which I have thus obtruded myself, sometimes with effect, and oftentimes perhaps without, and such evidence as I can produce is found only in detached Memorandums.

I am however I think enabled to manifest to you a chain of circumstances that will shew they have not been unimportant on many occasions, but as these are much too voluminous for a post dispatch, I shall confine myself for the present to those immediately relating to the Grant in question.

Among other representations, I had frequently called the attention of Mr. Courtney, as well as the Lords of Trade, embodied in Memorials on other subjects, to the difficulties under which the Cape generally, but more particularly the English residents, labored from the extreme high price of Labor, and suggested the expediency of extending the same encouragement to the Cape as was done to Canada. The cessation of Hostilities and consequent distress of the lower Orders in England induced me to submit a proposition, of which the enclosed No. 1 is a Copy, to Lord Sidmouth, then Secretary of State for the Home Department. His Lordship in reply politely thanked me for the suggestion, and directed me to communicate with Earl Bathurst, the subject falling more immediately under his Lordship's department, and I consequently transmitted a Copy of my Ideas to the Colonial Office. Soon after this period a Subscription was set on foot in the City for the relief of distressed Seamen, and others annoying the streets of London, and a sum of money was raised, more than adequate to the object. I endeavoured to engage the Committee of this fund to undertake my scheme, but without effect, at length Mr. Courtney said that he would introduce the subject to the Committee on the poor Laws, of which he was a member, and subsequently on the 7th February 1819 wrote me the annexed Note No. 2. He afterwards

expressed a desire, and took an opportunity at the House of Commons, where my attendance on the interests of the Colony was frequent, to introduce me to Mr. Sturges Bourne, the president of the Committee, who after much Conversation expressed a desire to promote the Object. The Session was far advanced, the Committee were to meet only once again before its close, which was to be the day but one next after this interview, against which Mr. Bourne begged me to collect what evidence I could, and attend the Meeting. I could think of no one so likely to give the Committee information, particularly of a local nature as Mr. Burchell, with whom I was slightly acquainted, and who I knew to be at that time preparing his Botanical Work on the Cape. He was resident at Fulham, and the next day was occupied in engaging him to come forward on this occasion, having much difficulty to overcome his retired habits and disposition. We met by appointment at Mr. Courtney's Office, at the Board of Controul, an hour before the Sitting of the Committee for the purpose (with Mr. Courtney's assistance) of arranging a code of Questions best calculated to elicit the required information, but Mr. Courtney's engagements from the arrival of some Indian Despatches preventing his attention to us, the hour of Sitting arrived, and we were hurried before the Committee without any such previous preparation, which circumstance I mention to account for the irregular and perhaps irrelevant manner in which I felt our evidence was given. The result however was the immediate moving in the House by the Chancellor of the Exchequer of a vote of Fifty Thousand pounds for the purpose of giving encouragement to Emigration to South Africa.

Thus tho' but a worm at the foundation, yet as the first mover of the Stone I claim some right to a liberal participation in its consequences.

Under this feeling and in relation to my own circumstances at the time, I addressed a Letter to Earl Bathurst, of which the Enclosure No. 3 is a Copy, and No. 4 the reply.

I wrote to Mr. Goulburn as per No. 5, (by which you will perceive my intention is to call consideration to points which I thought might escape notice) to which No. 6 is the Official reply. I addressed Earl Bathurst as per No. 7, and No. 8 is the answer.

Previous to my embarkation on board His Majesty's ship *Vigo* for the Colony on the 27th March 1820, I applied for the promised letter as per No. 8 to the Governor, and No. 9 is the Copy of a Note accompanying the same. As soon as I had finally brought my affairs to a close, I presented this letter to the Acting Governor Sir Rufane Donkin, and subsequently I presented a Memorial of which No. 10 is a Copy, and No. 11 the reply. And in February 1821 I set out from Cape Town, taking with me a person of the name of Dunn, who had come out at my suggestion, and who, having been brought up as a Country Auctioneer and appraiser of Land and Stock, I thought might be useful to my views for the District of the new Settlement, visiting on my Route every intermediate Bay, Port and River, and being joined in my expedition by Mr. B. Moodie and Lieut. Donald Moodie, from the one I gathered information of the Interior, and was assisted by the other in forming my opinion of the nautical practicability of the various Bays and Rivers.

We arrived at Bathurst, and viewed the condition of the surrounding Settlers, then at least promising. I visited the mouth of the Kowie, traversed and sounded it with Lieut. Moodie, and was I believe the first to suggest to the Acting Governor Sir Rufane, whom I met at Bathurst, the practicability and advantages of such a communication. I formed my opinion and my plans, and referring to my sentiments, expressed in my address to Earl Bathurst (No. 7) and to much earlier opinions to the Board of Trade, which I can produce, that in establishing a commercial connexion with a New Settlement of this sort it is necessary to ascertain how or in what manner you are to be paid for your supplies. I at this period formed the opinion that Cattle was the readiest circulating medium of this and the back or Northern Districts, the most natural produce and the only one that could be brought into early operation, all others being remote, and therefore if I could take cattle in payment of my goods I should establish an advantageous Connexion for them and for myself.

The next question was how to appropriate this produce. I made my calculations, and altho' I knew the undertaking to have failed on a former occasion, and from the result to be deemed impracticable, I flattered myself with better success,

and better knowledge of markets, and determined to resume the experiment of Salting Beef for the Supply of the Navy, of Shipping, and for exportation to various markets then in my contemplation, and of drying the Hides &c. so as to render this an important available return.

In furtherance of this view, tho' unexplained to Sir Rufane Donkin, and consistent with the view I have taken of this Subject from the Commencement and set out upon as will appear from the Chain of Documents submitted, I solicited of the Acting Governor a Grant of Land at the Mouth and on the right bank of the Kowie, the opposite side being in the occupation of Mr. Thornhill ; this was at first refused on the plea of being already, and only the day before granted, but having some idea that Sir Rufane was misinformed on this point, I was obliged to assert a priority of claim founded upon a portion of the circumstances herein detailed, and it being found on investigation that I was correct and that the Land in question was unalienated at the time of my request, I obtained the promise of 2,000 Morgens situated according to my desire, and I mention these circumstances in connexion with my first position, merely to shew that almost any other person might have had the same, and that such grants were common at this time, before and since.

I have stated that I believed I was the first to suggest the practicability and advantages of a Communication by the Kowie, an acknowledgement which I believe is upon record in the Cape *Gazette* under the designation of a Commercial Man, and I believe my own subsequent shewing caused my Grant to be thrown back, one if not two Miles from the Mouth of the River, at which however I was promised to be allowed one hundred yards frontage for the purpose of erecting Stores &c.

Tho' no part of the condition of the Grant, I promised Sir Rufane in subsequent conversation that I would manifest the practicability of the River and open the communication, and I wrote to my correspondents in England on the subject of sending out an Humber Keel, as they are called, a kind of vessel I considered the best calculated for the purpose. With these views having likewise an Erf given me in the projected Town of Bathurst, I commenced by enclosing and building a Cottage thereon for the temporary residence of Mr. Dunn, part

of a plan for building a more regular House and Stores when labor should be somewhat reduced.

At this period a degree of spirit was infused into the minds of the Settlers, Bathurst was promising to rise fast, it was made the Seat of a Drostdy or Sub-Drostdy, a Drostdy House was building, other Government Buildings were projected immediately opposite my own Erf, temporary Barracks were erected, and it was understood that a portion of the Military (the readiest foundation of a new Settlement or Town) would be stationed there.

I left Bathurst, leaving Mr. Dunn to represent me, and leaving in his possession effects and money to the amount of Rds. 5000 for the prosecution of my views. I went to Port Elizabeth, and my Erf there being ill-situated, having been marked out for me unselected in Cape Town, I purchased part of another more suitable to my objects, for which I gave fifteen hundred Rix Dollars to a Dutch Colonist, and immediately directed a Store to be built upon it, viewing a connexion between Port Elizabeth and the Kowie to be indispensable.

On my arrival in Cape Town, I immediately dispatch a Schooner (the *Elizabeth* of 25 Tons) with Merchandize for the Kowie, after some difficulty and disappointment which will be easily comprehended I (that is the vessel) effected the first entrance of any Craft into the Kowie, and discharged her Cargo in the River. She returns to Port Elizabeth, reloads and re-enters the Kowie and discharges. I then order her round to Cape Town, but in attempting to weather Cape Recife she is driven upon the Rocks and totally lost. Some circumstances arising out of the nature of the undertaking rendering the Insurance questionable, I am at present the Loser of at least Ten Thousand Rix Dollars by this part of the enterprize.

I have established an Agent, Mr. Andrew Nicol, at Port Elizabeth, which has given much facility to the Shipping visiting that Port. I have at least thirty if not Forty Thousand Rix Dollars Capital floating between my two Establishments of Bathurst and Port Elizabeth, from which my Agents only have hitherto derived one tittle of benefit, not a Stiver having yet reached me.

In the meantime the views of Government changed, the

fostering hand of power was withdrawn from Bathurst. The Military were removed. The Drostdy and other public Buildings discontinued, and it was understood the whole were to be concentrated in Graham's Town, and the practicability of the Kowie, as far as Government was concerned, was considered visionary. Bathurst consequently and necessarily sunk.

You Gentlemen will visit it, and you will find that my Agent, Mr. Dunn, supported by me from that time (June 1821) to this day by a Salary of Rds. 100 per month besides House Rent and Garden, in firm maintenance of my original views, tho' paralyzed by this change of circumstance, is almost the only remaining vestige of the once promising town of Bathurst, and you will say, Gentlemen, on reading this statement of facts, whether I have not paid sufficiently dear for the Grant in question, which is rendered valuable only by my own particular views of its appropriation, separated from which you will find in the course of your investigation, that a Dutch or German Colonist would scarce pay the fees of Office for its attainment, and I am sure you will on comparing the circumstances of the Grant with others, which will no doubt fall under your Observation, excuse my expressing some surprise, whence and how it should become an object of particular enquiry, having, I am sure, on my part taken no undue measures for its acquirement, and I cannot on the contrary but feel a little disappointment when on a rechange of the views of Government with respect to the Kowie these circumstances and pretensions should be lost sight of, and others placed in a situation to reap the benefit of my blighted prospects.

I have now Gentlemen to state to you, how far I have proceeded in carrying my views into effect, and how they have been necessarily paralyzed by these events, and to shew that I have left nothing unturned that my individual agency, unsupported and unaided, could effect towards their accomplishment.

Previous to my setting out for the frontier in 1821, I endeavored to engage Rear Admiral Lambert, then commanding the naval force on this station, to draw his supplies of Cattle required for St. Helena from Algoa Bay, as being cheaper and better, but the Rear Admiral declined the suggestion, on account of the increased distance and difficulty of Navigation for the conveyance of Live Stock. In 1822, the

earliest possible period (the Seasons for Salting being confined to the months of May, June, July, and August), Mr. Dunn Salted a few Casks of Beef by way of experiment, the Casks being made of the Wood of the District, and sent them to me. I sent samples to H.M.S. *Andromache*, but the pickle having leaked out, the Beef was only partially approved, and I derived no farther benefit than the experience.

I afterwards engaged Capt. Owen of H.M.S. *Leven*, commanding the Squadron employed in the Survey of the East Coast of Africa, to try the experiment, and he ordered three months supply to be prepared for him against his return to Algoa Bay the following April, this was therefore Salted out of the usual Season and ready for delivery at the time appointed, but owing to the loss of H.M. Schooner *Cockburn*, attached to the Squadron, Captain Owen becoming inconvenienced in Stowage, this Beef was not taken, and a proportionate Surplus now remains on hand in Algoa Bay. Mr. Dunn continued Salting in the Months of May, and June, and furnished me in the whole about Sixty Casks of upwards of 330 lbs. each.

In October last H.M.S. *Andromache* being in Algoa Bay, and the Commodore visiting Bathurst in person, and the superiority of the pasturage, appearance of the Cattle, &c., being evident, and viewing the importance of the object to the Colony, he was induced to receive on board Twenty One Casks of this Beef, upon the understanding that for what proved good and fit for H.M. Service I should be paid at the rate of Irish Beef supplied to the Victualling Yard in Simon's Bay, but the risk and responsibility of its proving so good and fit remained with me. The *Andromache* being destined on a Cruize to the Mozambique Channel, Madagascar &c., the trial was a desirable tho' an arduous one, and for the unquestionable success of it I appeal to the Commodore, founded on the survey and examination of the proper officers of the Ship, the men I know found it far superior to the Irish, and one cask of this quantity has been reserved and deposited in the Victualling Stores in Simon's Bay for further proof of time. This Supply of 21 Casks was taken promiscuously from the pile I have stated as being at Algoa Bay and part of it, (the numbers appearing to run from No. 1 to No. 44) was that prepared for Captain Owen and salted in March last.

I have thus at considerable labor and expence proved the practicability of rendering this an Article of valuable export from the District in question, as originally devised, and I am now soliciting Government for support and some exclusive protection to an undertaking of the kind on such a scale as to render it an object of Colonial importance.

I have stated that my views on this subject were paralysed by the change of circumstances at Bathurst. When Bathurst was, as I have stated, promising to rise into importance and made a Station for Military, when Government Stores were projected at the Mouth of the Kowie on the left Bank, and consequent Military protection rendered necessary at that point, I could with comparative Safety, as your observation will point out, collect a quantity of Cattle on the grant of Land in question, but the moment these positions were abandoned by Government this Security vanished, and your information on the then and the present state of the Caffres will point out to you that it would have been the height of temerity to have prosecuted such a scheme beyond the course of experiment I have pursued, and that it is not until definitive and confident protection shall be given to this part of the District, that I can prosecute my views with any reasonable prospect.

I have now Gentlemen given you at least a circumstantial Account and explanation of this transaction, and of my relative views, and I commit myself to your impartial judgment, with the hope that these views may find some support from your favorable representation.

I have perhaps troubled you with much irrelevant matter, but I have thought it best to be thoroughly explicit, and place the entire chain of circumstances before you, and I have only to add, with respect to those further grounds of Claim to the favorable consideration of Government, as set forth in my Memorial No. 10, that for the reasons assigned, combined with the want of time, I cannot transmit them by this conveyance, but I shall be prepared on the looked for return of your Commission to Cape Town, to submit to you such proof of the Services I rendered the Colony in the way stated, as will satisfy you that I have not advanced an untenable position. I have &c.

(Signed) HENRY NOURSE.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 31st January 1824.

MY LORD,—I have the honour to acknowledge the receipt of your Lordship's despatch, No. 60, of the 4th November last, stating that you had commenced drawing Bills upon His Majesty's Treasury for the sum of £125,000 sterling, in order to provide for the relief of the inhabitants of the Cape of Good Hope, agreeably to arrangements sanctioned in my despatch of the 15th of November 1822.

After having been encouraged to hope, from previous communications received from your Lordship, that you would not have occasion to draw for any part of this money, it is with great concern, as well as surprise, that I find, from your despatch now before me, that the whole amount thereof will probably be required. Such an intimation has imposed upon me the necessity of directing that the circumstances which have caused so unexpected a demand should be fully explained by your Lordship, and that your explanatory despatch should be accompanied with an exact statement of the distribution which you propose to make of the money in question.

As the Commissioners of Enquiry have been directed to report upon the expediency of the measures your Lordship has considered it necessary to adopt, with a view of relieving the difficulties of the colonists, it will be advisable that you should communicate with those gentlemen upon the subject, apprising them of the arrangements you have made for the distribution of the assistance to be granted, and placing in their possession whatever information may have decided your Lordship to avail yourself, at the present time, of the arrangements sanctioned in my despatch before mentioned. With such information, in addition to their own observation of the state of the Colony, the Commission of Enquiry will be enabled to fulfil the instructions which are now sent to them—instructions which are equally necessary on your Lordship's account, and for the satisfaction of the Treasury and Parliament.

I have &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

COLONIAL OFFICE, LONDON, 31st January 1824.

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's dispatch No. 54 of the 8th October last stating the grounds on which you have been induced to direct that a House situated in Graham's Town should be purchased as a Residence for the Secretary of the district of Albany and requesting that the sum required for this contingent service, amounting to ten thousand Rix Dollars, may be admitted as a charge in the accounts of your Government.

Although I am not disposed to withhold my sanction from a measure which appears to have been adopted by your Lordship in order to diminish a charge which under the general regulations of the Colony, the Secretary of the district of Albany has been allowed to make on account of House Rent, yet I cannot allow the present occasion to pass without expressing my hope that the purchase in question has not been concluded without an express reservation that fulfilment of the contract should depend upon the sanction of His Majesty's Government, as an unconditional agreement would have been justifiable only in a case where a positive emergency rendered it necessary that a contingent charge exceeding £200 sterling should be sanctioned by your Lordship without previous reference to this Country. I have &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to the* COMMISSIONERS OF ENQUIRY.

DOWNING STREET, LONDON. 31st January 1824.

GENTLEMEN,—I transmit to you herewith a copy of a despatch which I have addressed to Lord Charles Somerset, in answer to a letter which I have recently received from his Lordship, in which he states that the distresses of the colonists

had induced him to commence drawing Bills upon the Lords Commissioners of the Treasury to the amount of £125,000 agreeably to arrangements sanctioned in my despatch of the 15th November 1822, of which a copy is also transmitted herewith.

And I have to desire you would take the subject of this correspondence into your immediate consideration, and after communicating with Lord Charles Somerset thereupon, report to me, for the information of His Majesty's Government, your opinion upon the expediencies of the measures which His Lordship has now considered it necessary to adopt, with a view to relieve the present distresses of the inhabitants of the Cape of Good Hope; and that you would also report upon the distribution which his Lordship proposes to make of the money in question. I have &c.

(Signed) BATHURST.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 31st January 1824.

MY LORD,—I have had the honor to receive your Lordship's Despatch of the 21st of July No. 72, with Six Enclosures, containing Copies of the Circular Instructions which your Lordship had addressed to the Several Governors of His Majesty's Possessions in the West Indies, in conformity to certain Resolutions which had been unanimously adopted by the House of Commons in the last Session.

In reply to the Copy of the Instructions marked A of the 28th of May 1823, I have the honor to inform your Lordship, that the flogging of Female Slaves in this Settlement has been prohibited, that the flogging of Males under the Authority of the Magistrates has long since been forbidden to exceed, even in extreme cases, 39 Stripes, and that by the 17th Clause of my Proclamation of the 18th March 1823, herewith enclosed (No. 1) establishing a general improvement in the condition of the Slaves here, the domestic correction of the Males is

confined to 25 Stripes and to what may be considered a mild domestic correction, and that there is also a restriction as to the implement with which such limited domestic correction is to be inflicted. The practice of using the Whip, or driving Slaves to their work by the Sound of it, is totally unknown in this Settlement.

In answer to your Lordship's Circular of the 9th of July, relative to the importance of establishing the means of Religious Instruction for the Slaves, I am happy in being able to call your Lordship's attention to the 4th Clause of the enclosed Proclamation, in which you will perceive that I have been prompted by views Similar to those which have guided your Lordship on this Subject, and that the means for attaining that object, as far as they can be usefully employed at present, have been established here. A Statement of the expence which will be incurred for the Establishment on that Head, as nearly as it can at present be calculated, I have the honor to transmit (No. 2) and the assurance which your Lordship gives me that His Majesty's Government will not hesitate to apply to Parliament for such pecuniary grant as may be necessary for these establishments, will render the measure extremely palatable and enable me to continue it upon the most effective and beneficial principles. There being no Sunday Market in this Settlement and the Sabbath being observed as a day of Rest, the clause on that subject requires no comment.

Relative to the admission of the Evidence of a Slave in the Courts of Judicature at the Cape of Good Hope, if I might presume to offer an opinion to your Lordship on a subject of this Magnitude, I should recommend that the Law existing here respecting it should not be disturbed. The 12th Clause of the enclosed Proclamation admits the Evidence of Slaves who have been baptized. And it is necessary for me to explain to your Lordship that no adult receives Baptism here until he has undergone Examination by one of the established Clergymen and has been found to possess such a degree of Religious information as entitles him to receive that Holy Sacrament. Previous however to the enactment alluded to in the 12th clause of that Proclamation, the Evidence of Slaves not having received Baptism was admitted in the Courts of this Colony

in cases where every circumstance corroborated the testimony given.

In October 1822 J. W. L. Gebhardt (the son of the Revd. Mr. Gebhardt) was tried for excessive punishment of a slave which caused his Death and condemned upon the Evidence of Slaves, none of whom had been baptized, and there was no other Evidence than that of these Slaves adduced for the Prosecution, except that of the Members of the Inquest (and the Surgeon attending it) which sat upon the Body after Death.

Respecting the Marriage of Slaves, I beg to refer your Lordship to the 5th, 6th and 7th Clauses of the Proclamation enclosed, by which I trust every provision is made on that Head.

Upon the Subject of the Manumission of Slaves, I will immediately direct your Lordship's Instructions to be put in Execution ; but it may be proper to explain to your Lordship that there is at present no Tax of any kind laid upon manumissions at the Cape of Good Hope. The Law, as it stands, only requires a payment of 50 Rixdollars (about £4 Sterling) to the Church fund to entitle the manumitted Slaves to maintenance when old, infirm or rendered incapable of supporting themselves. To guard against any fraudulent motive for manumitting a Slave, no manumission can take place except under the express sanction of the Governor for the time being, who requires certificates to prevent the mischiefs alluded to in this clause of your Lordship's Despatch. Nothing is more common here than for a Slave to purchase his own freedom, and any agreement between the Master and Slave for that object is recognized and becomes effective. I am not aware that any obstacle to manumission can arise from the circumstance of Slaves being mortgaged or from an uncertainty as to whom they belong, as the Slave Registry appears clearly to obviate the latter and the necessity of enregistering all mortgages at the Colonial Office fully prevents the former ; I will however refer this subject particularly to the Chief Justice, and if any difficulties can arise, will require him to suggest such provisions in the Law as shall meet your Lordship's views on this point.

The loss of Deeds of Manumission is already provided for

by the Regulations of the Slave Registry, as no one can be a Slave at the Cape of Good Hope who is not identified in that Registry.

With respect to the Sale of Slaves with other property, it appears that the Laws argued upon by your Lordship attach solely to the West India Islands; the 7th clause of the enclosed Proclamation provides against the Separation of man and wife or mother and children by Sale.

Relative to the domestic punishment of a Slave being deferred 'till the following day, and to a Plantation Book being kept for the purpose of making Entries of such punishment, the nature of the offences committed and the free persons present at the punishment, I conceive such a Regulation totally inapplicable here, although I conclude highly necessary in the West India Islands.

Your Lordship will perceive how strongly protected against ill treatment or undue punishment the Slave at the Cape of Good Hope is by the 16th, 17th, 18th, 19th and 20th Clauses of the Proclamation of the 18th March 1823, and in this thinly peopled Country where a Boor possesses perhaps only one Slave and that neither he nor any Member of his Family can write, it would be next to impracticable to carry this measure into execution; and the attempt to enact it might cause a ferment and a degree of dissatisfaction extremely embarrassing to the Government.

Upon the next point in your Lordship's Despatch, the Saving Bank, I have the honor to inform your Lordship that I established one here shortly after my return from England.

I have now touched upon all the points to which your Lordship's Circular Letter of the 9th July 1823 has called the attention of the Governors of the British Colonies, with the view of giving your Lordship the best information which my Local experience enables me to supply; and if I have represented any of the measures recommended by your Lordship as not applicable in this Colony, I hope your Lordship will believe that it has not arisen from any want of anxiety or absence of inclination in the cause of the Slaves or in the adoption of measures suggested by your Lordship for ameliorating their condition, as I trust my Proclamation of the 18th March last sufficiently proves, but there exists scarcely any Similarity

(except in the name of Slavery) between the condition, the treatment and the Labour of the Slave in this Colony and the Slave in the West India Islands. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure 1 in the above.]

PROCLAMATION of the 18th March 1823.

[Enclosure 2 in the above.]

Estimate of Expence for erecting Schools for Slave Children, Dwellings for the Masters, and the amount of their Salaries and the Sums required for maintaining these Establishments throughout the Colony of the Cape of Good Hope.

15 School Houses, each to be divided into two Apartments, one for Boys, the other for Girls, the Partitions to be thrown open during the performance of Divine Worship, at Rds. 5000 each Rds.	75,000
For Apartments to be added for a Dwelling for the Master, at Rds. 1000 each	15,000
Fitting up with Forms, Tables, Desks, &c., at Rds. 1000 each .	15,000
Capital laid out Rix dollars	105,000

ANNUAL EXPENCES.

Salaries of 15 Schoolmasters, at Rds. 600 each Rds.	9,000
Salaries of 15 Schoolmistresses for the female Scholars at Rds. 360 each	5,400
Repairs, Books, Slates, &c., computed at annually	4,500
Annual Expenditure Rds.	18,900

The above Expence will fall heavily upon the respective Districts, and were a Grant made by Parliament for defraying the first expenditure (say £10,000) it would have a most beneficial effect in promoting the general measure and be most gratefully felt by the Colonists.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 1st February 1824.

MY LORD,—I have had the honor to receive Your Lordship's Despatch of the 10th of August last No. 73, and it is with deep regret that I remark your Lordship's displeasure upon my having issued the Proclamation for bettering the condition and treatment of the Slaves in this Colony on the 18th March 1823 ; but I trust that your Lordship will be satisfied upon that Point when I shall have had the honor to state the motives by which I was actuated, and shall have more fully explained the Clauses which appear objectionable to your Lordship, and which I shall take in the order in which your Lordship has observed upon them.

The objection stated by your Lordship to the 12th Clause I have fully explained in my Despatch of yesterday's Date No. 70, by which your Lordship will perceive that the admission of Slave Evidence under particular circumstances is no new Law here, and that no adult Slave is baptized unless the Clergyman administering that Holy Sacrament finds, that the Slave has proceeded so far in Christian knowledge as to entitle him to partake of it.

With respect to Clause 4th. The making it compulsory only as it regards the Slave Children of Christian Proprietors will I believe be found consistent with every principle of the British Constitution. There are a few Mahomedan Slave Proprietors here, their Slaves are also Mahomedans, and it may perhaps occur to your Lordship upon further consideration, that it would be a stretch of power and assume a character of Despotism, not recognized by any British Law, to compel the children of Mahomedans to become Christians, and the attempt might lead to serious Commotion. The advantages that are offered by the Establishment of Schools are great, and every fair Inducement to become Christians is held out.

With regard to clauses 8 and 9. Whatever the result may appear in Theory I ascertained previous to framing them that in Practice here they would have the effect of inducing Slaves to become Christians by that little variation in the age of

separation, and that the children of 8 years old are too young for Persons to be desirous of purchasing them without their Parent.

In Clause 10 Your Lordship is desirous of being informed why the Proprietor of a Child born out of Wedlock should not be compelled to have it baptized? Of all the difficulties that presented themselves in framing this Proclamation, (and they were numberless) there was perhaps no one that was less easy of Decision than this. Two main objects were to be attained: the one to induce Heathens to embrace Christianity, the other to check the System of Concubinage, so general amongst Slaves, and to establish lawful Marriages.

The Clergy refuse to marry Slaves who are not Christians, and they do not baptize them unless (as has been above explained) they have received religious Impressions which entitle them thereto. Under these considerations it was after much Investigation deemed right to make it compulsory on all Proprietors to have their Slave children born in Wedlock baptized, as it was thought by those most acquainted with the feelings of the Slaves to be the best Encouragement to Matrimony amongst them.

To Clause 17 I have replied in my Despatch of yesterday No. 70.

With regard to there being no Directions in the Proclamation as to the Courts in which the Penalties are to be recovered or as to the Persons by whom an Action for the recovery of them is to be maintained, I have to observe that there is no choice of Courts here. The Court of Justice is the only Court in Cape Town, and the Fiscal is there the Public Prosecutor.

In the Country Districts the only Courts are those of the Landdrost and Heemraden, and the Secretaries to the respective Districts are the Public Prosecutors.

It is now necessary for me to explain to Your Lordship the Inducements I had to issue the Proclamation previous to submitting it for your Lordship's sanction.

I had not learnt in the Month of February (when I was framing this Proclamation) that new Laws respecting the Slaves were likely to be enacted in the Month of June following, and from Enquiries I had made of Persons, competent to give me the Information, I found that every Circumstance relating to

Slavery in the West Indies was so completely at variance with the Slavery in this Colony, that the Laws which would suit the one would be totally inapplicable to the other, and the further I dived into the Customs, Habits and Employments of the Slaves here, the more I found that all Regulations which it would be wise to make, must depend upon local Information and Experience.

Another consideration acted very powerfully in my mind. Slaves are the only property of any value in this colony. Land is of none in comparison, and it will occur to Your Lordship how nicely it was necessary to balance any Interference not only with the most valuable Property of Individuals, but with their feelings and authority. Authority that had grown with their growth, and strengthened with their strength, and which they regarded as a Birthright sanctioned and confirmed by the Laws of the Mother Country.

The Impression made by the Execution of the Son of the Revd. Mr. Gebhardt presented an opportunity not to be lost. I felt it, and availed myself of it to declare, (in affirming as Judge in the Court of Appeals the Sentence passed by the Court below on that Individual) my intention of considering the Condition and Treatment of the Slave Population. Had I delayed, that Impression might have worn off and I should have had to struggle with prejudices and feelings hostile to the humane object I was so anxious to attain and in which Your Lordship and His Majesty's Government have been so laudably employed. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 2nd February 1824.

MY LORD,—Considering that the distant period fixed (1st of January 1827) for establishing the English Language exclusively in the Legal Courts in this Colony had reference solely to an expectation that the Language of the Mother Country

was not likely to be in general use at an earlier period, and finding that, in almost every case brought before the local Court of the District of Albany, the parties use English, and taking also into consideration that the only two (out of Seven Members who compose that Court) who are not Englishmen born, are well acquainted with the English Language, I have deemed it expedient to promulgate the Proclamation herewith transmitted, which I trust will meet with your Lordship's fullest Approbation. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Copy.]

Letter from MR. WILLIAM EDWARDS to LORD CHARLES SOMERSET.

25 LONG MARKET STREET, 3rd February 1824.

MY LORD,—Mr. Cooke having this morning requested me to accompany him to England for the purpose of prosecuting his complaint against Mr. Blair to the Lords of the Treasury and the House of Commons, we jointly waited on the Fiscal to take the usual oath preparatory to obtaining a passport, which Mr. Denyssen refused to administer because he had received from your Excellency the Memorial which I had the honor to request you officially to forward.

As I am convinced it would be an injustice to believe you had intercepted the complaint of one of His Majesty's Subjects to the proper Metropolitan authorities, I request your Lordship will be pleased to direct that the obstruction may be removed, as Mr. Cooke is thus prevented from seeking for redress and wishes me to present a complaint to the House of Commons saying he is detained here that he may not seek for Justice where none ever sought in vain. I have &c.

(Signed) W. EDWARDS.

[Copy.]

*Letter from the ASSISTANT SECRETARY TO GOVERNMENT to
MR. WILLIAM EDWARDS.*

COLONIAL OFFICE, 3rd February 1824.

SIR,—I am directed by His Excellency the Governor to acknowledge the receipt of your letter of this day's date, and to inform you that His Majesty's Fiscal having notified to His Excellency that Mr. L. Cooke's attendance before the supreme Court of Judicature here will be required for answering a charge which the course of his official duty has rendered it necessary for him to prefer against Mr. L. Cooke, and in which His Majesty's Fiscal also considers that you are implicated, His Excellency is compelled to withhold the requisite permission for yourself and Mr. L. Cooke to quit the Colony until the Proceedings alluded to by His Majesty's Fiscal shall have been terminated. I am &c.

(Signed) P. G. BRINK.

[Copy.]

*Letter from MR. WILLIAM EDWARDS to LORD CHARLES
SOMERSET.*

25 LONG MARKET STREET, 3rd February 1824.

MY LORD,—Not feeling disposed to stoop tamely to this illegal interference of the Fiscal in interdicting all complaints to His Majesty's Minister, nor wishing again to send any Memorial thro' your Lordship, and yet unwilling to give you the slightest offence, I take the liberty of submitting to your Lordship the Copy of a Petition I mean to forward to a relation in Parliament by the *Elisabeth*.

If you wish to have any phrase fairly altered I have not the least objection to conform to your wishes.

I ever regretted that Mr. Blair forced Mr. Cooke to adopt these measures and reluctantly engaged in them altho' I do not so reluctantly engage in this complaint as I have no notion of

this omnipotent officer presuming to punish the People of England for endeavouring to exercise their 'most undoubted right. I have &c.

(Signed) W. EDWARDS.

[Enclosure in the above.]

To the Honorable the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled,

The Humble Petition of William Edwards of Cape Town in the Colony of the Cape of Good Hope, Notary, Sheweth,

That being retained by Mr. Cooke a Merchant in Cape Town to prepare a statement of an insult he had received from the Colonial Collector of Customs on a Complaint to the Right Honorable the Lords of the Treasury he made the same in duplicate with evidence in support thereof attached thereto one copy of which he forwarded to England and a duplicate thro' His Excellency the Governor on the 23rd of January last.

That being requested to accompany Mr. Cooke to London in order to conduct his complaint before their Lordships or your Honorable House as might be deemed most proper He this morning applied to the Office of the Fiscal for a Passport to leave the Colony for that purpose, which was refused, the said Fiscal alledging that he intended to prosecute applicants for writing such Memorial.

That your Petitioner immediately wrote a letter to His Excellency the Governor a Copy of which is hereunto annexed, and received the answer also hereunto annexed from the Deputy Secretary to Government.

That your Petitioner considering this conduct of the Fiscal in intercepting a complaint to their Lordships of the Treasury as a misdemeanour and infringement of the right of His Majesty's Subjects to lay their complaints before His Minister annexes a copy thereof and of the depositions in its support which were so intercepted.

And humbly prays that you will cause the said Fiscal to be summoned to meet your Petitioner at the Bar of your Honorable House to answer for having so intercepted the said complaint

thereby as far as in him lay endangering the pure administration of Justice, and that protection from the insolence of office for which all His Majesty's English subjects so naturally look from the Metropolitan Government. And he will ever pray &c.

[Copy.]

Letter from LORD CHARLES SOMERSET *to* MR. WILLIAM EDWARDS.

NEWLANDS, 4th February 1824.

SIR,—It appears by your Letter which you addressed to me yesterday marked private just received, that you are under a total misapprehension as to the cause of your and Mr. L. Cooke not obtaining at the present moment the necessary Certificates for quitting this Colony. The Law Officer of the Crown having reported to me that your and Mr. L. Cooke's attendance would be necessary in a cause he is, *Ratione Officii*, about to bring before the Court of Justice of this Colony, and consequently that the ends of Justice would be frustrated by your or Mr. L. Cooke's departure previous to the decision of that suit, it becomes necessary that I should withhold the required Certificates, having ever considered it the first duty of a Governor to act in obedience to, and in support of the Laws of the Colony over which He presides. I am &c.

(Signed) CHARLES HENRY SOMERSET.

[Copy.]

Letter from MR. WILLIAM EDWARDS *to* LORD CHARLES SOMERSET.

CAPE TOWN, 4th February 1824.

MY LORD,—As it appears by your Excellency's letter that I have misapprehended the conversation of Mr. Denysen occasioned probably by his ignorance of the language in which he attempted to speak, I sincerely regret the trouble I have caused you.

I submit with pleasure to all the directions or wishes of your Excellency, and shall now wait the result of the Fiscal's operations, holding him nevertheless responsible. I have &c.

(Signed) W. EDWARDS.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 5th February 1824.

MY LORD,—I have done myself the honor within these few days to reply to your Lordship's Despatch (Circular) of the 9th July 1823 and that of the 10th August 1823 No. 73, and have now the honor of addressing myself to your Lordship in answer to your Lordship's Private and Confidential Despatch of the former date.

The proposition contained therein, relative to the introduction of Task-work amongst the Slaves, is altogether, I fear, impracticable here; the labor of the Slave in this Settlement being of a nature too various to admit of any organization to establish that measure, but your Lordship will observe that in the 16th Article of the Proclamation which I issued on the 18 March 1823 for improving the condition and protecting the Slaves of this Colony, I particularly forbade the employment of Slaves beyond a limited number of Hours each day, unless they were remunerated for their extra work, which remuneration will tend to benefit the Slaves here in like manner with the advantages proposed for the West India Negroes, by entitling them to compensation for all work performed beyond the Task allotted to them.

The other point to which your Lordship has particularly called my attention, is a general enactment that all female Children born subsequent to a certain period shall be free. Although there can be no doubt that at some remote period this measure would accomplish the ultimate extinction of Slavery, still as it would deprive the Inhabitants of this Colony in the same progression of the only property regarded as valuable here, upon which species of property almost all Securities

for Loans or Mortgages are given, I consider that without some moderate compensation for the emancipation of each female Infant, the measure would be felt as a direct privation of property, would shake all pecuniary transactions and excite a commotion and dissatisfaction extremely difficult to allay. Were a compensation given, say £12 Sterling for each Female Infant after it had lived a week, the measure might be accomplished in this Colony without a murmur under £6000 per annum, which Sum would of course gradually decrease as the measure proceeded.

The Qualification recommended by Your Lordship of apprenticing for a certain number of years such female child to the Proprietor as a remuneration for the expence incurred in bringing her up, exists at present here with regard to apprenticed Prize Negro and Hottentot Children, which is found to be the best Security for their being reared with care and experiencing kind treatment. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Printed Slip.]

Opening of a Church at Stellenbosch on the 5th of February 1824.

On Thursday the 5th instant, the consecration of the Church, appropriated for Slaves and Slave Children, took place at Stellenbosch. His Excellency the Governor, attended by Captain Fitz Roy, the Landdrost, and Mrs. van Ryneveld, and all the principal Inhabitants of Stellenbosch and its vicinity, honored the ceremony with their attendance. An excellent Sermon was preached on the occasion, by the Rev. Mr. Borchers; after which, the Rev. Mr. Faure addressed His Excellency in English, in which he expressed, in the most appropriate terms, the gratitude of the Inhabitants, for the very extensive means which had been afforded by His Excellency, for the instruction and the improvement in Religion and Morals of all classes of the Community.

[Copy.]

*Letter from MR. WILLIAM EDWARDS to LORD CHARLES
SOMERSET.*

CAPE TOWN, 7th February 1824.

MY LORD,—As it states in my letter of the 4th instant that I was willing to abide your Excellency's pleasure as to the result of Mr. Denyssen's proceedings in the case of Mr. Blair without having first consulted my Client, and as he is dissatisfied with that measure in consequence of having other important business which requires his attendance in London, I am reluctantly compelled to prefer a Petition for him to Parliament against Mr. Denyssen.

But seeing the measure pregnant with mischief to your Officers and perhaps trouble to yourself, I write to propose that Mr. Cooke may have his passport on giving security to answer the consequence of the charge alluded to by the Fiscal and the Deputy Secretary in his letter, and I will take the responsibility of proving the facts stated in the memorial on myself, as I have always avoided professionally setting forth things out of the reach of proof ; and I will remain here pro tempore to do this.

In case permission or Bail is granted no Petition shall be forwarded to Parliament until I see the result of the intended proceedings, when I may probably join Mr. Cooke in London.

May I beg Your Excellency to inform me where I may address the copies of the papers and correspondence to the Commissioners of Enquiry, Mr. Cooke having been advised by several of his friends to do this. I have &c.

(Signed) W. EDWARDS.

[Copy.]

Letter from the REVEREND WILLIAM GEARY to JOHN THOMAS BIGGE, ESQRE.

GRAHAM'S TOWN, 8th February 1824.

MY DEAR SIR,—Will you as a private Individual, and a lover of Justice, and not in your Official Capacity, favor me with your Opinion as to the propriety of my despatching a copy of the following Note to Major Somerset? Its nature will apprise you of the purport of my application to you.

I cannot even guess, dear Sir, at the motive of this strange conduct, unless it be my illuminating in common with many other quiet and loyal men in honour of your arrival. I am &c.

(Signed) WM. GEARY.

[Copy.]

Letter from J. T. BIGGE, ESQRE., to the REVEREND WILLIAM GEARY.

GRAHAM'S TOWN, Sunday Morning.

DEAR SIR,—I must request that you will excuse me from giving any opinion whatever upon transmitting to Major Somerset the Letter, a copy of which you have done me the honor to enclose in your Note just received.

I beg to remain &c.

(Signed) J. T. BIGGE.

Note by the REVEREND WILLIAM GEARY.

N.B. As Mr. Bigge favored me with his unsolicited advice on a Case between the Colonial Government and myself on the day preceeding, I construed his silence into a tacit permission, presuming that the same kindness would hinder me from doing any act of indiscretion that might injure myself.

Lord Charles Somerset, in consequence of this Letter, and for no other reason as declared in General Order dismissed me from the Military Chaplaincy, and the Military never attended Divine Service till my successor arrived at Graham's Town, a period of nine months.

[Copy.]

Letter from the REVEREND WILLIAM GEARY to MAJOR SOMERSET.

GRAHAM'S TOWN, *February 8th 1824.*

SIR,—While in the Pulpit of the Chapel this morning, (Sunday) expecting as usual the attendance of the Military, I observed the Troops halt in front of the Building, and then march away! This message also from yourself was at the same time communicated to me by Brigade Major O'Reilly "That the Troops were not to attend Divine Service, till further Orders." *

I think it my duty, Sir, as Chaplain to the Military to admonish you, that you are taking an awful responsibility on yourself (and for which at the last day you must render an Account) namely, how far *personal pique* to a Minister, for which you can assign no reason, authorises you to deprive the Military of the benefits of Divine Service.

But whatever may be your feelings on this point, I think it but candour to yourself, and respect to my office to inform you, that unless you make an apology to me for this public, unprovoked, unprecedented and most wanton insult offered to a Clergyman of the Established Church, in actual attendance on his Official Duties, I shall instantly transmit a Copy of this Note to my Lord Bathurst, who, I am confident, is too warm a friend to our Church Establishment to suffer the meanest of its Ministers to be thus grossly insulted!

I beg you to recollect that this is not the first time you have offered me this insult! I am Sir &c.

(Signed) WILLIAM GEARY.

* The real Instructions brought by the Brigade Major, were "That the Troops were to attend Divine Service no more!!"

[Original.]

Letter from the COMMISSIONERS OF ENQUIRY to EARL BATHURST.

GRAHAM'S TOWN, 9th February 1824.

MY LORD,—It is not without reluctance and regret that we have formed the determination of submitting to your Lordship's early notice the conduct of an Individual in this Colony and of making any deviation from that strict line of duty that has hitherto withheld us (except in cases especially authorized by your Lordship) from the investigation of personal conduct.

The hope however of averting the calamity of domestic dissension from the noble families of His Grace the Duke of Beaufort and of His Excellency Lord Charles Somerset, and the necessity that we feel of making your Lordship acquainted with the character of a person who violating a confidence reposed in him by a member of those families has risked the chance of spreading disunion among them for the purpose of gratifying feelings which we cannot but at present regard as mercenary, and has exposed to hazard in a discontented community like this the character of Lord and Lady Charles Somerset, will (we feel confident) be a sufficient excuse in your Lordship's mind for the line of conduct that we have pursued.

Soon after our arrival in this place on Wednesday last we were informed that the Reverend Mr. Geary, who has during the last three months been distinguished by the violence of his invectives against the Colonial Government and the District Magistrate Mr. Rivers for what he terms their oppressive conduct in reducing his fees as chaplain or resident Clergyman of the District, had shewn to several persons a letter he had received from the Duchess of Beaufort, in which her Grace had been pleased to inform him that in consequence of a letter she had received from Lord Charles Somerset he would certainly be entitled to considerable fees in his present situation, and after expressing her satisfaction that a person of Mr. Geary's exalted piety and excellence had been appointed to a situation in which he was capable of rendering much service to the community, her Grace also expressed a hope that he would be of much service to Lord and Lady Charles Somerset, "as they were not religious people."

This was the shape and terms in which the report first

reached us, and we had also reason to believe that it had been circulated throughout the community by the authority of and with some pains by the Reverend Mr. Geary himself. After conversing upon the subject with Major Somerset, the Commandant of the Frontier and Son of Lord Charles Somerset, we agreed with him that it was most desirable to keep the report from the knowledge of Lord and Lady Charles Somerset, and to endeavour if possible to prevent its transmission to England in any shape that might wound the feelings of the noble writer of the letter or affect the persons to whom it applied.

After some consideration of this report both with reference to its public consequences and to the conduct of the author, we determined to make some particular inquiry of one of the persons to whom (we were informed) it had been communicated, having first learnt that she was one in whose discretion confidence might be placed. We accordingly proceeded this morning to take her declaration, a copy which we now have the honor to enclose, by which your Lordship will at once be enabled to trace the malignity of motive that actuated Mr. Geary and the unparalleled treachery with which he has violated the confidence reposed in him by her Grace the Duchess of Beaufort.

As we could not prevail upon ourselves to take any step that might be fatal to the interests of Mr. Geary without first informing him of such intention, we requested his attendance for that purpose. He admitted in our presence part of the opprobrious terms he is said to have applied to Mr. Rivers, confirmed the open perusal of the letter and the strict obligation to secrecy enjoined to him by the Duchess of Beaufort, but to our utter astonishment attempted to justify this worst and last act by the remoteness of the situation and by the small number of friends to whom he had disclosed the communication confided to him, as he admitted it was under a strict injunction of secrecy. Upon our requesting him to name those friends, he was unable to do so in more than one instance, and his inability to remember the person to whom he made so particular a disclosure as that which we have the honor to transmit has led us to infer and to apprehend that the knowledge of the report has been more widely circulated.

...

In the course of our interview Mr. Geary offered and pressed us to peruse the Duchess of Beaufort's letter. This we positively declined, but from his account of it we are induced to hope that the offensive interpretation that has been put upon one passage by the wife of Mr. Geary, and which we apprehend has found its way into the Community in the terms that it reached us, is not borne out by the real words of the letter itself.

Of this we trust your Lordship will receive a confirmation, if Mr. Geary should adopt the suggestion we have conveyed to him by enclosing the letter of the Duchess of Beaufort with any statement he may address to your Lordship.

According to Mr. Geary's account of the letter the Duchess, after expressing her zealous hope that his services will be beneficial to the inhabitants of this part of the Colony, trusts that they will be equally beneficial to Lord and Lady Somerset, to whom tho' she gives credit for possessing good and amiable qualities yet she is not aware that they are influenced by the "highest motives" (inferred to mean) those of religion.

The strict injunction of secrecy which Mr. Geary fully admitted appeared to have followed this passage.

Although we had great satisfaction in finding that the direct imputation conveyed in the first report was much mitigated by Mr. Geary's repetition of the passage, and felt some difficulty in suppressing the sentiments of indignation that his insensibility to the disgrace of violating such a sacred confidence had created, we yet felt it our duty to recommend to him to take an early opportunity of explaining himself as far as possible to your Lordship, to meet the statement that we intended to make of this transaction, and to use every means in his power to check the further propagation of the report in this Colony or in England.

We feel certain that by placing Your Lordship in possession of it as well as of the authority and circumstances from whence it originated, we have adopted the best means for ensuring the tranquillity of the noble Families to whom it relates, and having done this we trust that we have not overstepped the bounds of our duty if we have afforded your Lordship an opportunity of judging of the character of a man who must from his situation

possess some degree of influence over the members of this Community.

Of his claim for more liberal remuneration in the shape of fees than has been allowed him in a schedule lately published by the authority of Lord Charles Somerset, of the refusal of glebe land, or of a grant of land and of other personal grievances from which Mr. Geary hopes to justify the irritation of mind under which he has been led to commit this and many other acts of vehemence, we forbear at present to speak. The former he has not yet submitted to us, if even we shall deem them fit subjects for our investigation; the latter we forbear to enter upon, as they have been made the subject of prosecution that is now pending in one of the Courts of Justice. We have &c.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

P.S. Since writing the foregoing letter we have received one from Mr. Geary which we beg to enclose to your Lordship, together with the reply that we have sent to it.

We regret that he should not have complied with our recommendation to send the letter of the Duchess of Beaufort under seal to your Lordship, and it only remains for us to hope that the ill consequences to be apprehended from the conduct of the person in whose hands this document remains may be as far as possible averted.

[Enclosure in the above.]

GRAHAM'S TOWN, 9th February 1824.

Mrs. Onkruidt (wife of Mr. Onkruidt Acting Secretary to the District and District Clerk) states to the Commissioners that about two months ago she called upon Mr. and Mrs. Geary at their house in Graham's Town. She found them at home and alone.

The first subject of conversation started by Mr. Geary was that Mr. Rivers the Landdrost had taken away his (Mr. Geary's) fees. He even said that Mr. Rivers was a thief, and had robbed his children of their bread.

He then said that the Duchess of Beaufort had promised that he should have his fees, and he would shew Mrs. Onkruidt a letter to that effect. He proceeded to open his writing case,

and taking from it a letter, offered it to the Declarant, but she did not like to peruse it, upon which Mr. Geary said he would read it to her. He accordingly read it, and as far as she can recollect, the letter stated that Lord Charles Somerset had informed the Duchess that Mr. Geary would have good fees. It went on to express a hope that Mr. Geary would do a great deal of good, and that Lord Charles Somerset had expressed to the writer his Thankfulness to her for having sent out so excellent a clergyman. The letter proceeded with certain passages applying by name to Lord and Lady Charles Somerset, the import of which the Declarant not having understood, she asked Mr. Geary the meaning. Mr. Geary replied that it meant that neither Lord nor Lady Charles Somerset were religious people, and that the Duchess hoped that Mr. Geary's advice would do them a great deal of good.

The letter concluded with a sentence that appeared to the Declarant to imply that the Duchess had written the letter in confidence to Mr. Geary.

The Declarant states that she has not been upon habits of great intimacy with Mr. and Mrs. Geary, but that she visited them until this last occasion, when she was so much struck with the indelicacy of Mr. Geary's proceedings in disclosing a confidential communication, that she thought it her duty to mention it to her Husband that he might be on his guard, tho' she declares that she has never mentioned it to any other person whatever.

Declarant is not herself aware whether the contents of the letter are known to any other person, but she feels convinced in her own mind, from the impression she has received of Mr. Geary's character, that he would not scruple to disclose and communicate the letter to any other person who might call at his house, the Declarant not being intimate there.

Declarant adds that no injunction whatever of secrecy as to the contents of the letter, or the conversation, was suggested or prescribed to her by Mr. and Mrs. Geary.

The above declaration having been read over to me, I affirm it to be true.

(Signed) CATHARINA ONKRUYDT.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

[Copy.]

Letter from the COMMISSIONERS OF ENQUIRY *to* LIEUTENANT
COLONEL BIRD.

GRAHAM'S TOWN, 9th February 1824.

SIR,—We beg leave to acknowledge the receipt of your letter of the 30th ultimo conveying to us an answer enclosed from Mr. D'Escury to our inquiries relative to the fate of certain Memorials of J. J. Potgieter, and we hasten to assure you both of the deep concern with which we have learnt the cause of your present confinement, and of the regret that you should have allowed yourself to be disturbed, during a period so critical, by any enquiry that emanated from us.

We sincerely hope that your recovery from this severe accident that has befallen you will be speedy and complete, and that in case any official communication from us and written under ignorance of the accident that now confines you should reach your hands, you will be good enough either to delay the answer or to instruct Mr. Brink to furnish it, as your own Discretion may dictate. We have &c.

(Signed) JOHN THOMAS BIGGE,
W. M. G. COLEBROOKE.

[Original.]

Statement of MR. BENJAMIN WILMOT.

ALBANY, February 9th 1824.

TO HIS MAJESTY'S COMMISSIONERS OF ENQUIRY.

The Statement of Benjamin Wilmot of the District of Albany, Southern Africa, sets forth

That he has been endeavouring for two years to obtain compensation for six of his oxen lost out of the Scutt Kraal, first through the medium of the Landdrost Harry Rivers, Esquire, to whom he applied under the idea that as it is the first and chief duty of all Landdrosts to settle differences and to prevent litigation that he was bound to decide upon this

matter or direct some other mode of proceeding, instead of which he would neither entertain the subject nor give a decided answer; afterwards of His Excellency the Governor, and lately of the Honorable the Court of Circuit, in which Court he instituted a Suit against the District which he is told is represented by the Landdrost and Heemradens for compensation for the loss of time and expences necessarily accrued in the prosecuting his claim before the Landdrost who refused to act in the affair.

About the 13th day of May 1822, the day before Mr. Marr ceased to act as Undersheriff, Mr. Wilmot and his friend Mr. John Fournier saw Eighteen of his Oxen in the Scutt Kraal and acquainted Mr. Marr of it, who said they were sent in by Old Nell and there was only two skillings each to be paid, on Mr. Wilmot's returning with the change he paid four rix dollars and four skillings and went to the Kraal to turn them out when only three were then there, the remainder having been sent out by the herdsman; these three he took away and called several times the same day for the others, but the cattle did not come in till it was too dark to discern one Ox from another. On his calling next morning he was told that Mr. Marr was suspended and that Mr. Wathall had the key, who refused to give them out without the fees being again paid to him. The Secretary Mr. Le Sueur on hearing these facts told Mr. Wathall he was authorized in demanding payment to himself as the oxen were given over to his charge with the key. Mr. Wilmot being unable to pay the fees a second time although he had offered to sell one of them for the purpose to the Slaughterer, returned home above 20 miles and called two days after to pay whatever sum might be demanded, when only nine of them were then in the Kraal, which he took out and paid for to Mr. Wathall and received a Certificate from Thomas Cardon of the number then delivered. On enquiring what became of the other six no one could give any satisfactory account, but said some cattle had been owned and taken out by Mr. Retief and others.

About the beginning of June following said Mr. Wilmot saw one of the six missing oxen yoked in Mr. Retief's waggon, which he in an angry mood, because the waggon was proved to him to be his although he had denied it, sent it to the Scutt Kraal and desired Mr. Wathall not to deliver it to anyone

without an order from the Landdrost. Blackbeard the Constable put it into the Kraal amongst the Cattle taken from the Caffers instead of amongst the impounded beasts (this ox was marked R. G.) ; on enquiring of Mr. Ward what had become of this Ox that had been so long in his charge, he said he could not tell.

About the beginning of July following another of the missing Oxen Mr. Wilmot saw in the Scutt Kraal, which Mr. Ward also refused to deliver out till the Landdrost should order him, and was sold to Mr. Retief at a public sale although Mr. Wathall acquainted the Vendue Master that it belonged to said Mr. Wilmot. This ox was branded in each horn with the letter C.

All which particulars said Mr. Wilmot laid before the Landdrost at the seven several interviews he had with him on the subject, and could obtain no further answer than " really I am too busy to attend to this now," by which expression from the number of interviews he had had with the Landdrost on the subject he concluded that his case was become an old affair and that he must obtain his rights by some other move. It then occurred to him that His Excellency the Governor Lord Charles Somerset would grant his (Mr. Wilmot's) rights and therefore he wrote out a statement of the above facts, and as he was then severely suffering by Dysentery from not being able to purchase anything to live on but flesh at that scarce time, he joined this subject to that of the loss of his oxen, and directed it to His Excellency, but *has not had any answer thereto*. Mr. Wilmot conceiving that he must have recourse to legal proceedings to obtain satisfaction for his losses, concluded that the Court of Circuit was the proper authority to hear and determine his complaint, and applied to Mr. Onkruidt for a Summons to appear before the Court of Circuit, and was told by him in the presence of Mr. Phillips that there was sufficient time, but on being told it was against the proprietors of the Scutt Kraal, he appeared astonished and said "you cannot sue them." When Mr. Wilmot had related the particulars of this complaint he advised the Summons to be taken out against Marr, which having refused to accede to he requested a statement of complaint in writing to be left with him that in the mean time he would consult with the Landdrost

and in a day or two he would be able to tell him if he could issue the Summons, and that no advantage should be taken of the delay, and made many kind professions of services and advice. On Mr. Wilmot's calling upon him with his written complaint he Mr. Onkruidt, notwithstanding the long discussion he had had with him on the subject and his own professions of advice &c. pretended to know nothing of the affair, and in the presence of Heemraden Hope and Mr. Huntly refused to issue a summons, declining at same time to give his reason for so doing.

Immediately on the arrival of the Honorable Court of Circuit, said Mr. Wilmot presented a Memorial to that Court for a Summons against the District of Albany, setting forth concisely Mr. Onkruidt's refusal to issue one without his assigning any reason for such denial, and at full length the particulars of his case and laid his damages at 500 Rixdollars.

The Court in the presence of Mr. Onkruidt said that the application was not made in time, to which Mr. Wilmot replied that he was prevented from making the application before from the then recent excessive rains and from an accident to my left eye which confined me to darkness and my chamber in excruciating agony for upwards of a fortnight; and that all human laws and regulations must give way to the Divine Will and to inevitable necessity. The Court thought proper thereupon to grant him a summons against the District, which was made known to him by Mr. Onkruidt in the presence of said Mr. Hope in the following words: "Mr. Wilmot, the Court has directed me to inform you that they have thought proper to deviate from the usual mode of proceeding, and have granted your case a hearing, which will come on for trial on Wednesday the day of . You will therefore give me a statement of your case and names of Witnesses that I may have them summoned."

On which day having prepared himself to substantiate his case and collected evidence together, instead of having his cause brought on for a hearing as he confidently relied upon, the Court thought proper to make the following objections, and finally *refused* to proceed to a hearing.

First objection. That he had better sue the Scutt Kraal Keeper whose neglect had caused the loss of the cattle.

2ndly. That as the District is the proprietor of the Scutt Kraal and is represented by the Court of Landdrost and Heemraden, he said Complainant could not sue them, for how could they as a body be brought before the Court.

3rdly. That he had better (and urged him) to bring his Suit before the Court of Landdrost and Heemraden as the management of the Scutt Kraal is in that Court, and as his complaint arose from the neglect of their Servants, and as they must have power to enquire into the conduct of those Servants they might hear his complaint.

4thly. That if he (Mr. Wilmot) consented to bring his case before the Court of Landdrost and Heemraden, and they should in their breasts consider he had sustained damages beyond the amount of 300 Rds., they could apply to the Governor for an extension of their power to do justice to this his individual case.

To which said Mr. Wilmot then submitted that as the Gentlemen or Committee who represented the District had placed an individual to do the duties of that part of the District revenue the Scutt Kraal and to account to them for the profits &c. of the Scutt Kraal, that he became literally their servant, and as such the Law would consider the acts of him to be the acts of the employers or Masters, and that as Conservators of the District chest they ought to have taken proper sureties for the due performance of his trust.

2ndly. That although the same Gentlemen may act in the capacity of a Court of Judicature, it was not incompatible for them to hold another situation, although they may sit one moment in their judicial capacity, the next moment they might sit as a Court or Committee of management, and that whatever regulations or appointments were made that did not immediately relate to the judicial administration, it could only be made in their capacity as a Committee and not as Judges ; though it might be inconvenient for all the Gentlemen who represent the District to attend the Court, having public business to attend to, they might as a Corporation appoint an individual (their Secretary) to answer to any complaint that might be alledged against them.

3rdly. That as the members of the Court of Landdrost and Heemraden must actually be the Defendants, that they could

not sit to try this cause, because they would be acting in the double capacity of party and judge, that although these members may have power to enquire into the conduct of their servants *ex parte* as Masters and dismiss them, they could not legally try and condemn them in pains and penalties as judges.

4thly. As he had already applied to His Excellency the Governor on the subject without getting any answer he did not wish to rely upon that expedient.

After this discussion which had been urged also previous to his having had his memorial for a hearing granted, and as he thought waived, the Court directed the Suit to be brought before the Court of Landdrost and Heemraden, and that the expences incurred in their Court should abide the event of the Cause, to which he bowed in submission as their decree, not in assent, for he then said he would rather drop his claim than have it decided by the individuals against whom he had to complain.

The next morning Mr. Wilmot presented the following memorial :

Your Memorialist offers his respectful thanks for the suggestions and advice of your Worshipful Bench, but that in the paramount necessity of his case he hopes will be found sufficient excuse for his thus renewing his application that his cause may be brought before you.

He most respectfully submits that the Law limiting the jurisdiction of the local judicature to a specific sum of money in all actions of damage or recovery must be a definite one, and that as the damage he has laid makes his case not cognizable by the District Courts according to the Proclamation of the Executive, it can only be tenable before your Worshipful Court.

That the Servants of the local Magistracy being the aggressors in your Memorialist's case eminently disqualifies it for becoming the judges of a dispute between an indifferent individual and the person its patronage has given the appointment, a conclusion your Memorialist is the more compelled to make from the general dissatisfaction on all subjects connected with the impounding of cattle.

That your Memorialist's damages are increasing in strict

ratio with the delay of giving him justice, and that in the procrastination he contemplates by looking to the Board of Landdrost and Heemraden for redress, he only foresees a Contest so interminable as to leave the simple merits of his Case a matter probably of much intricacy whenever judgment shall be given.

That with better prospects now in his native Country and an anxious desire thereon immediately to return, he is particularly solicitous for decision.

Your Memorialist therefore intreats your Worshipful Body will rescind your determination of yesterday and give his Cause a hearing.

And he will ever pray.

(Signed) BENJAMIN WILMOT.

The Court thereupon further objected that they could not proceed to try the Members of another Court without further powers from Cape Town ; what these powers were and how to act Mr. Wilmot was wholly at a loss until within a few days of this, when perusing the Cape Kalendar for the amount of stamp duty on a power of Attorney he accidentally saw the decree *Venia Agendi* was enumerated, when it instantly struck him that the want of this decree from the full Court was the only obstacle the Court of Circuit conceived existed to prevent their proceeding to determine the cause, to which reasoning if he had been made acquainted he should have submitted in reply that it could not possibly be a hindrance because the whole Body could have been tried with no more difficulty than one of them could if a case on a simple contract debt had been brought against one of them in his private capacity as a merchant, and also that the decree being a matter of course might have been granted any time before the verdict was enforced, and also that it was not needed because they were not to be questioned about acts done in their judicial capacity.

Your Relator is superlately (sic) unhappy that he is to be delayed from embracing his prospects in England, which is now bright, because he did not foresee what the most apprehensive and penetrating mind would not have imagined without an intimate knowledge of the Colonial Regulations, which a

foreigner cannot be supposed to know (this decree of Venia Agendi).

Your Relator respectfully entreats your Honors will consider the hardness of his case and present unhappy circumstances, arising not from his own default but the taciturnity if not the default of those very *authorities* who ought to have redressed him ; and from the general calamities of the Colony.

If your Honors should be of opinion that there is no existing Law to meet the justice of his case, I must appeal to your Authority as the Representative of His Britannic Majesty whose compassion is infinite to grant him a free passage to his native Country.

(Signed) BENJAMIN WILMOT.

[Copy.]

Letter from the DEPUTY COLONIAL SECRETARY *to*
MR. WILLIAM EDWARDS.

COLONIAL OFFICE, 9th February 1824.

SIR,—I am directed by His Excellency the Governor to acknowledge his receipt of your letters of the 4th and 7th instant, and to inform you that having fully explained to you in the Letter I addressed to you by His Excellency's authority on the 3rd instant, the reasons which compelled him to withhold Mr. L. Cooke's certificate for quitting the Colony, He has only to refer you to the contents of that communication.

I am &c.

(Signed) P. G. BRINK.

[Copy.]

Letter from MR. WILLIAM EDWARDS to the DEPUTY COLONIAL SECRETARY.

CAPE TOWN, 9th February 1824.

SIR,—As your letter of the 3rd instant referred to in yours of this day is contradicted by one of His Excellency to me on the 4th I shall close all further correspondence on the Subject and take measures which may set this matter to rights.

I am &c.

(Signed) W. EDWARDS.

[Copy.]

Letter from the Landdrost of Worcester to the Commissioners of Enquiry.

WORCESTER, 10th February 1824.

GENTLEMEN,—In reply to your letter of the 19th Ultimo requiring information relative to the removal of the Dover party of Settlers with Mr. Menzies from the Karega after they had built and cultivated to a certain extent, &c., I beg leave to state that soon after the late Acting Governor quitted the frontier in 1820, I received orders thro' Colonel Cuyler to remove certain parties of Settlers according to a memorandum he had received from Sir Rufane Donkin dated either from the Lourie River or George, a copy of which the Landdrost sent me along with some detail for obtaining transport to carry these instructions into effect, all which I left among the Records at Bathurst, the original remaining in the custody of the Landdrost of Uitenhage. This document may be of some use to you, as I apprehend the other parties which were removed at the same time will also state their case, altho' I took every means to convince them that all those movements were made in conformity with instructions from His Excellency the Acting Governor. I have &c.

(Signed) C. TRAPPES.

[Copy.]

*Letter from the REVEREND WILLIAM GEARY to the
COMMISSIONERS OF ENQUIRY.*

GRAHAM'S TOWN, *Tuesday Morning,*
February 10th 1824, ½ past 7 a.m.

GENTLEMEN,—I beg leave to acknowledge the receipt of your note of yesterday evening's date, (but which I have only just received), and deem it of some importance that the circumstance which formed the subject of your late interrogation to me should be fairly stated to you, previous to your communications with my Lord Bathurst, to whom I shall also take an early opportunity of writing, but I cannot possibly arrange the matter I wish to disclose to him as early as the present, nor perhaps the succeeding post.

Not many weeks since a Lady, whose apprehension is certainly not the most brilliant, favoured us with a morning call. The Fiscal's summons, which I had but lately received, naturally became a subject of conversation, and in the course of my remarks I could not help observing how remarkable it was that the day on which it was received should have brought me a communication of so opposite a nature from the Duchess of Beaufort, and drawing the letter from my Portfolio without thinking of the prohibitory paragraph that formed a part of its contents, I tossed the letter to Mrs. Geary and requested her to read it, which when she had done the said Lady (a Mrs. Onkruydt and the wife of a Functionary in this Town) exclaimed "influenced by the highest motives?" what does that mean? Does it mean his *high* connections at home? It was impossible for both of us to forbear smiling. Mrs. Geary however explained, and the interpretation, that was given (by one absolutely incapable of malice or misrepresentation) appears to be the one that this treacherous character (who with her Husband have frequently complained of the Landdrost's conduct, and of my obtaining no redress for the grossest insult from Wathall, a flogged and disgraced Sergeant in the army and still in office), I say Mrs. Geary's innocent interpretation so unsuspectingly and frankly disclosed to a fellow complainant seems to be the one this treacherous character has made so unfair and mis-

chievous a use of. The letter was never given her to read. The truth of the fact happily speaks for itself. For Gentlemen permit me to ask, if a principle of *delicacy* (by which I think you informed me she stated herself to be actuated) had really had the least influence in preventing her from reading the letter (which she also declared had been offered her for her perusal), would it not have operated in repressing her inquiries on the subject of that letter after hearing it read, and even have subdued a *wish* for any explanation of its contents? It is admirable how Providence so frequently makes the most trifling incidents the means of detecting falsehood. For I wish to observe to you that Mrs. Geary had long been impressed with a belief (from the use her visitor had made of a prayer book she lent her at church) that she was incapable of perusing even *print* in the English language, was it then likely that under such an impression she would hand her *manuscript* to read?

My enemies' cause must be a bad one indeed, if in recriminating they can seize with such avidity (what you must excuse me *still* for believing) such trifles as these. I exceedingly regret that the conveyance to England of anything I may have been tempted either unguardedly or confidentially to disclose under a temper irritated and goaded by *injury*, *persecution*, and *insult* (I use these expressions with caution) from the Governor of the Colony and Mr. Rivers the Landdrost of Albany, should prove in the slightest degree painful to the feelings of that truly excellent and exalted Christian character the Duchess of Beaufort.

I throw myself however on her candour, not meaning to justify what I am confident her Grace will feel no disposition *severely* to condemn. My ill-treatment has been shameful and ungrateful, I have fought the Battles of Lord Charles when the Landdrost meanly skulked away and left me alone, jealous of any favorable feelings His Excellency might have expressed for me, for when I had actively engaged in procuring many signatures in favor of the Governor, in opposition to a memorial that had been sent home, and the thing was prospering beyond my hopes, which Mr. Howard the much injured and oppressed clerk can testify, Mr. Rivers sent for me, and expressed a wish that the affair might drop, without assigning

any reason, but Mr. Howard *immediately* became, and has since continued the object of his malice. I immediately said if it was his advice, I would proceed no further, but he answered with his usual caution, No, I don't *advise*, but I should *wish* the matter would take its usual course, and that you should not concern yourself with it one way or the other, but I assure you I do not grudge you any popularity you may have acquired by your late conduct. The *first* opened my eyes to the *real* character of Mr. Rivers. I declined interfering any further in consequence of this intimation, suspecting my conduct was displeasing to Lord Charles, nor did I discover my mistake till after a considerable interval, when I renewed my exertions in favor of His Excellency, but the opportunity of serving him materially was gone by. Our opponents taking advantage of the interim had been most active, and but few additional signatures could be procured. The memorial however was completed and despatched to England; my activity in this business (tho' exerted in the fairest way) was grossly misrepresented in the *Morning Chronicle*. Gratitude to Lord Charles for some attentions he had shewn me, and a belief that he was really calumniated, induced me to take the active part I did, and I should have been far better pleased had any other individual taken it up. But I do feel it hard to become the victim of persecution through the arts of an *unprincipled* magistrate, kept in a state of irritation for months together I feel no disposition to deny that I have been urged to speak in harsher terms of my enemies than charity would dictate, but certainly not more offensively than truth would warrant.

But I now for ever take my leave of them. There *is* a Providence on whose aid I regret I did not more implicitly rely, who can not only defeat their most subtle machinations, but has promised to overrule them for good to those who unreservedly trust their concerns with him. Into *his* hands then I solemnly commit my cause, and whatever persecutions, injuries, and insults malice may doom me yet to sustain, it shall be my prayer that "his strength may be made perfect in my weakness" so as to enable me to bear everything in future with the meekness and fortitude of a Christian.

They may and *will* ruin me, as is evidently their intention, and which they have nearly already accomplished, but they

cannot deprive me of that *peace of conscience* which can make even a prison assume a smile, and without which the stateliest palace is after all but a dungeon.

The questions you chuse to propose to me Gentlemen I shall think it my duty respectfully to answer, but I beg leave to state to you it is not my intention, henceforth to accuse any individual, to submit to you *one* paper or trouble you with a single complaint. My Enemies have thus far succeeded.

I enclose you a copy of her Grace's letter, which you are at full liberty to use according to your discretion, but the original it is not my intention to part with. I have &c.

(Signed) WILLIAM GEARY.

[Copy.]

*Letter from the COMMISSIONERS OF ENQUIRY to the
REVEREND WILLIAM GEARY.*

GRAHAM'S TOWN, 10th February 1824.

SIR,—We have the honor to acknowledge the receipt of your letter of this date, explaining to us the circumstances under which you state that the letter of her Grace the Duchess of Beaufort was disclosed to Mrs. Onkruydt, and offering at the same time to our consideration certain claims that your conduct had given you upon the favorable opinion of His Excellency Lord Charles Somerset as well as the manner in which those claims were treated by Mr. Rivers.

We shall not fail to give due weight to your representations on these subjects, and with respect to any change that you may think fit to make in the mode of bringing the conduct of Mr. Rivers to our notice, we shall neither forget the expressions that you have made use of in our presence nor those which you have been pleased to adopt in your letter now before us.

We beg leave however to apprise you that whenever we think it expedient to enter upon the investigation of the judicial administration of Mr. Rivers we shall request your attendance at this office, leaving it entirely to your present

option to offer or withhold until we shall require them the documents and proofs that you say are in your possession.

We beg leave to return to you Sir in the unsealed state in which it was sent a paper which you inform us is a copy of the letter of the Duchess of Beaufort in which secrecy was enjoined you.

Having requested the original in a sealed state for the purpose of being transmitted to Earl Bathurst, and through his Lordship's means to avert the calamity of family disputes, we regret to observe that our efforts have been defeated by an attempt on your part to make us parties to a breach of confidence, an act of which we trust we are both incapable. We beg &c.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

[Copy.]

Letter from the REVEREND WILLIAM GEARY *to the* CHAPLAIN
GENERAL OF HIS MAJESTY'S FORCES.

GRAHAM'S TOWN,
CAPE OF GOOD HOPE, *February 10th 1824.*

REVEREND SIR,—I beg leave to submit to you a Copy of a letter I addressed on Sunday last the 8th instant to Major Somerset the Commandant of the Frontier, the subject of which will apprize you of the propriety of my troubling you with this address and at the same time spare me the necessity of making any comments on so gross and truly undeserved an insult. It is already known to His Majesty's Commissioners.

I have &c.

(Signed) WILLIAM GEARY.

[Office Copy.]

Letter from R. W. HORTON, ESQRE., to the COMMISSIONERS OF ENQUIRY.

DOWNING STREET, 11th February 1824.

GENTLEMEN,—I enclose you the Evidence on the subject of Emigration, given by me before the select Committee on the Employment of the Poor in Ireland, in the course of the last Session. I beg to refer your particular attention to the Evidence in page 44 to the end, which was given by me from notes placed in my hands by Mr. Ingram. At the time that I communicated with Mr. Ingram on this subject, I cautioned him in the strongest manner to guard himself against the slightest inaccuracy in his general Statement; and begged him to take particular care to understate all his points, rather than the contrary. His statements were at the time corroborated by other persons who were then in London. I told him that he must at once be aware that after a lapse of time necessary for communication to and from the Cape, this Department would be informed whether such Statements were inaccurate or not; and that the most serious consequences would inevitably result to himself if it should be discovered that he had deceived the Government on those points. The Statement which I have given in evidence is that which he gave to me after having received all these cautions, and I have therefore to request that you will specially report to me with respect to its accuracy.

I also enclose you a paper drawn up by Mr. Parker, which he is now circulating in the South of Ireland, and in which this emigration of Mr. Ingram's is commented upon in very strong terms, as a measure calculated to ruin all the parties who embarked with Mr. Ingram, and you will observe from Mr. Parker's own printed statement, that he says he did not at the time offer any objections to this plan, lest it should be supposed that they had originated in envious feelings. The fact is that he corroborated all the statements at the time.

If it were to be proved by your report that the data given by Mr. Ingram, and on the presumed accuracy of which the Government sanctioned that emigration were false and unfounded, I have no doubt that Lord Bathurst will immediately

instruct the Governor to remove Mr. Ingram from the Colony. Mr. Ingram was recommended in the strongest manner by Sir Nicholas Colthurst and Lord Ennismore, members for Cork, who represented themselves to have known him all their lives, and by several other persons. His proposals were not accepted with any reference to an obligation to be conferred on him, but with reference to the data on which he grounded his request. I remain &c.

(Signed) R. W. HORTON.

[Copy.]

Letter from Mr. WILLIAM EDWARDS to LORD CHARLES SOMERSET.

CAPE TOWN, 11th February 1824.

MY LORD,—In your character as Governor of this Colony I take the liberty of requiring you to forward the accompanying Memorial to Mr. Wilmot the Under Secretary of State, who being a Member of the House of Commons will receive it as a Parliamentary Paper.

The papers referred to in the margin will be shewn to him by Mr. Charles W. Wynne, the Honorable Mr. Bennett, or Mr. Hume, to each of whom copies shall be sent. I have &c.

(Signed) W. EDWARDS.

[Copy.]

Petition of Mr. WILLIAM EDWARDS to the HOUSE OF COMMONS.

To the Honorable the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled.

The humble petition of William Edwards of Cape Town in His Majesty's Colony of the Cape of Good Hope, Notary, Sheweth :

That being retained by Mr. Cooke a Merchant in Cape Town to prefer a complaint against Mr. Blair the Colonial Collector of Customs for insolence and abuse concerning a Negro apprentice, and that in the course of his enquiries into the affair so

many transactions of an improper management of the apprentices came to his knowledge he felt compelled to state them to the Lords of the Treasury in order to draw their Lordships' attention to the Collector's conduct.

That having done this in a written Memorial on the 23rd day of January last, he forwarded one copy of the complaint thro' His Excellency the Governor and another by post to the Treasury, and your honorable House will see (from the Copies hereunto annexed) that the charges against the Collector were of such a nature as to require an immediate investigation by His Majesty's Colonial Law Officers into the transactions of His Majesty's Collector of Customs.

That on the 3rd day of February instant your petitioner intending to accompany Mr. Cooke to England for the purpose of carrying on the said complaint before the Lords of the Treasury applied to Daniel Denysen the Fiscal of the Colony to take the usual Oath prior to obtaining a passport, which the said Daniel Denysen a Native of Amsterdam in a very rude and haughty manner refused to administer alleging as his reason that he had received the said memorial from Lord Charles Somerset with instructions to prosecute your Petitioner and the said Mr. Cooke.

That your Petitioner thereupon applied by letter whereof a Copy is hereunto annexed to His Excellency the Governor, setting forth the assertion of the said Daniel Denysen, to which he received the answer also hereunto annexed from Mr. P. G. Brink a Dutch Native of this Colony, attempting to confirm the said Daniel Denysen's assertions.

That he again wrote to His Excellency the Governor and received the answer signed by His Excellency declaring that your Petitioner had totally misapprehended the said Daniel Denysen's intention, yet on again applying to the said Daniel Denysen for passports this day, your Petitioner and the said Mr. Cooke were again refused.

That on reading the Affidavits of the said Mr. Cooke and your Petitioner, the letter of the said P. G. Brink and your Petitioner's to the Governor, your Honorable House will perceive that he could not have totally misapprehended the conversation, unless the said Daniel Denysen and P. G. Brink were ignorant of the true meaning of the words they used or pur-

posely told a falsehood to calumniate the sacred representative of Majesty which the said P. G. Brink perseveres in by his letter of the 9th Instant.

Your Honorable House will perceive by the Affidavits of the Gentlemen who this day accompanied your Petitioner and Mr. Cooke what was the manner and conduct of the said Daniel Denyssen.

And your Petitioner humbly submits it was the duty of the said Daniel Denyssen the moment he read the charges contained in the Memorial to the Lords of the Treasury, to have required your Petitioner's assistance together with Mr. Cooke, to prosecute the said Collector of Customs, they being at least of equal respectability and credit with the said Mr. Blair or Mr. Daniel Denyssen, and it is impossible the said Daniel Denyssen could have been permitted to see that Memorial by His Excellency the Governor for any other purpose.

Yet contrary to this man's duty to our Gracious Sovereign, contrary to the solemn oath he had taken, contrary to his duty to God and to man, winking at crime in office, sanctioning inhumanity, cruelty, insolence and oppression in authority, instead of standing forth the bold Champion of Public Justice, he scandalously lends himself the minion of power to punish two Gentlemen who were seeking to do what it was his duty to have done, and he would willingly increase the suffering of Mr. Cooke.

Mr. Cooke and your Petitioner had preferred a complaint to His Majesty's Ministers, and they have yet to learn where is the crime of seeking for Justice where Justice is sure to be found.

Your Petitioner begs humbly to state that this Daniel Denyssen is a Native of Amsterdam, having early in life taken an oath of fidelity to the Government of Holland, and that although the conquest and cession transferred the allegiance of every native born inhabitant of the Colony to His Majesty the King the Oath of Allegiance which this man so greedily swallowed to procure his office cast a suspicion over his character which his conduct in this affair confirms.

That your Petitioner having been informed of many other actions of this man of equal injustice and oppression will reduce the detail thereof into affidavit and cause the same to be laid before your Honorable House herewith.

And that as the said Daniel Denysen can only have been actuated by a wish to deprive His Majesty's subjects of any further redress than such as he chooses to mete out to them, and that as your Petitioner has so little dependence in his learning or his integrity as to be unwilling to submit to him what portion of right he shall receive, or to allow the said Daniel Denysen to choak up the avenues to even handed Justice, or to intercept, interdict or proscribe those who know where to seek it better than himself.

He humbly prays that the said Daniel Denysen may be summoned to appear at the bar of your Honorable House, to answer for His conduct in having presumed to intercept a complaint to His Majesty's Ministers lawfully enabled to redress the grievance complained of; For having arbitrarily refused to your Petitioner and Mr. Cooke their Passports, thereby keeping them prisoners here, that they might not seek for Justice at home; and for having threatened them with a prosecution, thereby deterring His Majesty's subjects from laying their complaints at the foot of the Throne, the invaluable and indisputable right of every Englishman.

Your Petitioner further prays that your Honorable House will make an order that he may be instituted the Prosecutor against Mr. Blair in the stead of the said Daniel Denysen if the said charge be proceeded in before the Court of Law here, so that Mr. Blair may not be acquitted on a fictitious prosecution.

And further that your Petitioner may be heard by Counsel before your Honorable House, there to criminate and prosecute the said Daniel Denysen in the premises.

And he will ever pray &c.

(Signed) W. EDWARDS.

CAPE TOWN, 11 *February* 1824.

[Copy.]

Letter from HARRY RIVERS, ESQRE., *to the* COMMISSIONERS OF ENQUIRY.

GRAHAM'S TOWN, 12th *February* 1824.

GENTLEMEN,—I have the honor agreeably to the request contained in your letter of this day's date to transmit a List

of those British Settlers in this District to whom the Titles to their Grants of Land have been delivered, and to state that the Title Deeds do not contain Mortgages for the balances due to Government on account of Rations issued to the party, but that the Heads of Parties are required to sign and acknowledge the correctness of the Commissariat Accounts.

I have &c.

(Signed) HARRY RIVERS.

[Copy.]

List of British Settlers to whom Title Deeds have been delivered.

Name of Settler.	Extent of Land granted.		
	Morgen.	Roods.	
Alexander Biggar . .	909	468	On the Carrega River
John Stanley . .	541	235	Blue Krans
George Pigot . .	1828	388	Do.
William Howard . .	804	376	Near Graham's Town
William Smith . .	2135	360	Governor's Kop, 12 miles E. of G. T.
George Dyason . .	1448	..	Torrens or Brakke River
C. T. Thornhill . .	843	132	East bank of the Kowie Mouth
John Mandy . .	628	119	Near Fish River
John H. Dixon . .	890	300	Waay Plaats
Richard Hayhurst . .	604	260	Near Bathurst
Miles Bowker . .	513	196	Riet River
Charles Hyman . .	1353	400	Do.
George Southey . .	700	146	Near Waay Plaats
Edward Ford . .	1154	400	Riet River
Hczekiah Sephton . .	5000	..	On Hassagay Bush River
James Richardson . .	714	400	Near Kowie Mouth
George Smith . .	1476	..	Do.
B. Leech . .	665	232	On Carrega River
Thos. Philipps . .	1021	410	Corn Plaats
Nottingham Party . .	2768	282	Near Bathurst
Edward Gardner . .	862	32	On Carrega River
Nathaniel Morgan . .	628	450	Near Graham's Town

Graham's Town, 12th February 1824.

(Signed) HARRY RIVERS.

[Original.]

Letter from MR. JOHN FOULGER to EARL BATHURST.

25 ROOD LANE, FENCHURCH STREET, *February 12th 1824.*

MY LORD,—It is with much diffidence I venture on the liberty of drawing your Lordship's attention for a few moments to the situation of the Settlers in South Africa, which is now distressing in the extreme.

I am aware that your Lordship's time must be fully occupied, but I am sure that your benevolent heart will feel for the miseries of the unfortunate.

Perhaps your Lordship knows that the crops have failed ever since the Emigrants were located in Albany, and the inundation this season has swept away all their remaining hopes.

The class of persons suffering is not the labouring poor, but that class which was once respectable in this happy country, and who were able to take with them some property, but the crops failing, their money expended, without decent clothing, and almost without food, they are reduced to a wretched state.

As a merchant trading to the Cape, I flatter myself that I possess correct information, and my brother in law having taken on himself the situation of Gratuitous Secretary to the Society formed in Cape Town for the relief of the Suffering Settlers, my information is derived from close investigation on his part. This Society has done what it could, but the mass of misery is greater than it has means to remove.

It is the wish of several persons, well acquainted with their distresses, to call a public meeting in the City, and open a subscription on their behalf, and it would afford them sincere gratification if Your Lordship would condescend to take the Chair on that occasion, and I beg further to solicit, that your Lordship would allow myself, and one or two gentlemen who have been at the Cape (not as Settlers) the honour of an audience for a few minutes, when we should be better able to explain the situation of those on whose behalf I have ventured to obtrude on your Lordship's notice. I have &c.

(Signed) JOHN FOULGER.

[Office Copy.]

*Letter from R. W. HORTON, ESQRE., to LORD CHARLES
SOMERSET.*

COLONIAL OFFICE, LONDON, *February 14th 1824.*

MY LORD,—I have received Earl Bathurst's directions to transmit to you the accompanying copy of an order of the House of Commons, and to request that your Lordship would give the necessary directions that the Documents therein mentioned may be immediately prepared and transmitted to this Office, and I am directed to add that a return has been made to the order in question as far as the Records of the Colonial Office supply the information required. I have &c.

(Signed) R. W. HORTON.

[Office Copy.]

*Letter from R. W. HORTON, ESQRE., to LORD CHARLES
SOMERSET.*

COLONIAL OFFICE, LONDON, *14th February 1824.*

MY LORD,—I am directed by Earl Bathurst to draw your Lordship's attention to the accompanying Copy of a letter addressed to Sir R. Donkin on the 31st July 1821, and to request your Lordship would give the necessary orders that the Slave returns therein mentioned may be prepared with the utmost possible dispatch, as the address of the House of Commons requiring such Documents has since been renewed.

I have &c.

(Signed) R. W. HORTON.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 16th February 1824.

MY LORD,—Having communicated with His Majesty's Secretary of State for the Home Department respecting the case of the female Slave Rosalyn as reported in your Lordship's dispatch of the 28th of April last, I now transmit to your Lordship a Pardon which His Majesty has been graciously pleased to grant to that person, upon condition that she shall be imprisoned and kept to hard labour for the term of five years. I have &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 16th February 1824.

MY LORD,—I have to acknowledge the Receipt of your Lordship's dispatch of the 24th September last in which you detail the reasons which had induced you to cause a Schooner to be built for the purpose of being stationed at the River Kowie ; and I have to acquaint your Lordship that under all the circumstances of the case, I shall notify to the Lords Commissioners of His Majesty's Treasury, my sanction of the expence which will attend the building of this Schooner.

I have likewise to sanction the erection of a tread Mill in the prison of Cape Town ; but I desire that female prisoners may not be subjected to the discipline of that Machinery ; and the notice of this subject affords me an opportunity of instructing your Lordship to make arrangements in all the prisons of the Settlement for exempting Prisoners generally from laborious discipline previously to their Trial. I have &c.

(Signed) BATHURST.

[Copy.]

Letter from HARRY RIVERS, ESQRE., to the COMMISSIONERS OF INQUIRY.

GRAHAM'S TOWN, 18th February 1824.

GENTLEMEN,—I have the honor in compliance with the request contained in your Letter of the 16th Instant to transmit Copies of such Letters as I have received from the Colonial Government authorizing additional Grants of Land to the English Settlers, and of the instructions relative to the issue of the Titles to the original Locations, and I have the honor also to enclose a List of those persons who have been granted augmentations and specifying the extent and description thereof.

There are many other persons who have stated to me that they had received promises of additional Grants from the late Acting Governor, but for which I do not find any authority in the Office. Many Memorials have been also addressed to the Governor for additional Grants, which Memorials have been referred to the Landdrost to report on the Localities of the Land asked for and other circumstances, but such reports have in a few instances only been furnished, as the boundaries and situations of the original Locations of which the diagrams were sent to me in June last had not been till then communicated so distinctly as to enable me to make the required reports, and His Excellency had therefore decided not to make any additional grants until the Locations should have become grantable.

This period has now arrived, and I believe it is the intention of His Excellency to accede to all additional Grants to which there shall not be any local objections, and which the industry and good conduct of the Memorialists may justify, and I shall now proceed with the inspections and reports without delay.

I have &c.

(Signed) HARRY RIVERS.

[Copy.]

Return of English Settlers whose Applications for Augmentations of their original Allotments of Land have been acceded to.

J. Goodwin. Granted 425 morgen near Graham's Town.

Miles Bowker. Granted 1270 morgen in addition to Location. Granted an Erf in Graham's Town.

Major Pigot. Location extended originally from 2000 acres to 1828 morgen. Granted 46 morgen on the banks of the Kowie. Granted an Erf at Bathurst and one at Graham's Town.

Samuel James (Head of Party). Granted in extension of Location the waste Land between Mr. Austin and Kleine Mond River, a large Grant not measured.

W. Wait (Head of Party). Granted in extension of Location a Plain towards the Sea not measured, and Location not yet granted.

Richard Bradshaw (Head of Party). Granted an extension of Location not measured.

J. C. Chase (of Mr. Bailie's Party). Granted 500 acres distinct from Location, not measured.

G. Futter. Granted an Erf at Graham's Town.

Richard Daniels. Granted additional Land adjoining his Location, not measured.

W. Thackwray. Allowed to take possession of E. Turvey's Location in addition to his own.

J. Stanley (Head of Party). Granted the full Location of 1100 acres for himself individually.

J. Latham (Head of Party). Granted 1000 acres in addition to Location, not measured.

A. Biggar (Head of Party). Location extended originally 1300 acres to 909 morgen. Granted a small farm near the Mill river distinct from Location. Granted an Erf at Bathurst.

Walter Currie (of Wilson's Party). Granted 1000 acres in addition to Location, not measured. Granted an Erf at Bathurst.

Captain H. Crause and Lieutenant J. Crause. Granted each 2000 morgen in addition to Location and in compensation for losses at Fredericksburg, place not fixed.

Lieutenant C. Crause. Granted 2000 morgen contiguous to Bathurst in addition to Location in compensation for losses at Fredericksburg.

J. Armstrong (of Scanlen's Party). Granted a small Erf at Graham's Town.

Captain Butler. Granted a farm of 1062 morgen instead of 1000 acres. Granted a piece of Ground at Graham's Town.

H. Sephton (Head of Party). Has been promised 500 acres in addition to Location. The full Location has been granted to this party originally consisting of 100 families, although two-thirds have not resided.

C. J. Thornhill (Head of Party). Location extended originally from 1400 acres to 843 morgen. Granted an Erf at Bathurst.

C. Hyman. Location extended originally from 1100 acres to 1358 morgen.

C. Ford. Location extended originally from 1000 acres to 1154 morgen.

W. Smith. Location extended originally from 1100 acres to 2125 morgen, and the full Location has been granted although few persons have resided.

Captain D. Campbell. Entitled to land for 7 persons, has been granted a farm of 2996 morgen contiguous to Graham's Town. Granted two Erven at Graham's Town and one Erf at Bathurst.

S. Biddulph. Granted 904 morgen in lieu of Location.

Mr. T. Phillips (Head of Party). Granted an Erf at Graham's Town and an Erf at Bathurst.

Mr. Bailie (Head of Party). Granted Land in addition to Location, not measured.

Mr. Bissett (Wilson's Party). Granted an Erf at Bathurst.

D. P. Francis. Granted an Erf at Graham's Town.

G. Dyason. Granted an Erf at Bathurst. Promised a Grazing Farm in addition to Location, and allowed an Erf at Graham's Town, as Field Cornet.

T. Mahony. Promised a grant in addition to Location and granted an Erf at Bathurst.

Granted an Erf at Bathurst to each of the following: W. Dell, Richard Pearse, J. Mandy, James Vice, Robert Vice, Joseph Hewson, W. Bond, W. Anderson, — Bradford, W.

Stanton, W. Boardman, W. Dold, J. Jarman, James Corney, B. Gunning, W. Griffiths, G. Jarvis, and T. Hartley.

Artificers to whom Small Building Lots at Graham's Town have been granted : W. Lee senior, W. Lee junior, W. Penny, C. Penny, Matham, Willis, J. Jones, Weatherage, Biggs, Searle, Webster, Keene, Holland, Venables, Clark, Thackeray, Leach, Walker, Bagshaw, Ploughman, Wright, Wells, Pain, Oats, Fowler, Jeffries, Jenkinson, Wood, Miller, Hartley, Penny, and Sergeant.

Graham's Town, 18th February 1824.

(Signed) HARRY RIVERS.

[Copy.]

Letter from MR. THOMAS PRINGLE to LORD CHARLES SOMERSET.

CAPE TOWN, *February 18th 1824.*

MY LORD,—I take the liberty to address you at the instance of some of my Friends at the Baviaans' River, who request me respectfully to state to your Excellency that they labour under great disadvantage this season in having no market for their surplus produce, on account of the Somerset Farm refusing to purchase from them, and advertizing for a large supply of wheat and barley to be furnished by Contract at Cape Town. There being no other market within reach of their Location they humbly request that your Excellency will be pleased to consider their situation and allow them to deliver what quantity of wheat and barley they can spare (which may be altogether above two hundred muids) to the Somerset Establishment at a reasonable price, which favour would be of great avail in promoting their prosperity. They add that they are ready to furnish the grain at a rate considerably lower than it would cost the Government if purchased here and forwarded to the interior by sea and land Carriage.

Committing this matter to your Excellency's gracious consideration, I have &c.

(Signed) THOS. PRINGLE.

[Copy.]

General Orders.

HEAD QUARTERS, 19th February 1824.

No. 1. The Landdrost of Albany having expressed to the Commander of the Forces the obligation under which he feels himself to the Officers and men on duty at Graham's Town on the night of the 4th Inst., by whose prompt and able assistance and exemplary forbearance a Tumult of a most dangerous character was quelled without any casualty having occurred,

The Commander of the Forces begs to express to every Officer and Man employed on that occasion his best thanks for the activity and soldier-like conduct they displayed, and most particularly for the temper and forbearance with which they executed their duty under circumstances of extreme provocation.

No. 2. His Excellency the Commander of the Forces has been pleased to dismiss the Reverend William Geary from his Appointment as Chaplain to the Forces at Graham's Town, and he is hereby dismissed accordingly.

(Signed) M. G. BLAKE, D. A. General.

[Copy.]

Letter from CAPTAIN FITZROY to the REVEREND WILLIAM GEARY.

MILITARY SECRETARY'S OFFICE,
CAPE TOWN, February 19th 1824.

SIR,—The Commandant on the Frontier having transmitted to His Excellency the Commander of the Forces a letter addressed by you to him on the 8th Inst., I am directed by his Excellency to inform you that the Tone of Insolence in which that Letter is written is so inadmissible in Military Life, and so entirely inconsistent with the Regulations of His Majesty's Service, that were you a Commissioned Chaplain to the Forces, His Excellency would not hesitate to arraign you

before a Court Martial ; but as your Appointment to perform the duties of Chaplain to the Forces stationed at Graham's Town and its Vicinity does not bear a Commission, His Excellency is pleased to dismiss you from that Appointment, and you are accordingly hereby dismissed therefrom, as will appear in the General Order of this day to the Army in South Africa.

I have &c.

(Signed) CH. FITZROY, Military Secretary.

[Copy.]

Letter from MR. THOMAS PRINGLE to P. G. BRINK, ESQRE.

CAPE TOWN, *February 19th 1824.*

SIR,—I beg leave to tender for the supply of one hundred muids of wheat at fourteen Rixdollars the muid to be delivered at the Government Farm of Somerset or at any Post within that distance from the Baviaan's River, the delivery to take place on or before the first of June 1824. I have &c.

(Signed) THOS. PRINGLE.

[Copy.]

Letter from the Landdrost of Albany to the Commissioners of Inquiry.

GRAHAM'S TOWN, *19th February 1824.*

GENTLEMEN,—In reply to your letter of this day's date I have the honor to transmit a List of those Settlers to whom money has been advanced on Loan by the Colonial Government, and to state that no money has been placed in my hands by His Excellency the Governor for the relief of the Emigrant British Settlers who had suffered most by the inundation and heavy Storm in October last. I have the honor to enclose a Copy of my Correspondence with the Colonial Secretary on this Subject. I have &c.

(Signed) HARRY RIVERS.

[Enclosure.]

List of English Settlers to whom Sums have been advanced by the Colonial Government :

J. Collis Rds. 600, J. Pawle Rds. 200, T. P. Adams Rds. 250, J. Walker Rds. 50, B. Burnett Rds. 150, Ellen Griffiths Rds. 250, Isaac Dyason Rds. 500, C. Crause Rds. 500.

[Copy.]

Letter from the Landdrost of Uitenhage to the Commissioners of Inquiry.

UITENHAGE, 19th February 1824.

GENTLEMEN,—I have the honor in reply to your letter of the 16th Instant respecting the removal of Sephton's party of Settlers to transmit herewith the original order to their being located to the westward of the line already taken up. Their being placed on the Riet Fontein must have been by some mistake. I have the honor to hand you a copy of an extract from a letter from Sir R. Donkin desiring their removal, as also the copy of a letter from me to Captain Trappes directing the same.

As to the future disposal of the lands to Mr. Nourse or the smallness of Major General Campbell's party, I bear no knowledge of it, as such was after the separation of the Drostdies and formation of that of Albany. I have &c.

(Signed) J. G. CUYLER.

[Enclosure 1 in the above.]

Distribution of Land to Settlers per *Aurora* Transport, for the guidance of the Landdrost of Uitenhage.

Director : Mr. Sephton. Number of Settlers entitled to Land : 100. Number of acres entitled to : 10,000. Land to be granted : 10,000 acres. Remarks : The spots measured by Mr. Knobel being now all located, Lieut. Col. Cuyler will

place these Settlers upon spots in the rear (or westward) of the line antecedently taken up ; care must be taken that on each spot to be located there be some spring of fresh water.

Colonial Office, Cape of Good Hope, 8th May, 1820.

By command of His Excellency the Acting Governor.

(Signed) C. BIRD.

[Enclosure 2 in the above.]

Extract from a Letter from SIR R. S. DONKIN to LIEUT. COL. CUYLER, dated George, June 13th 1820.

MY DEAR SIR,—I was yesterday evening favored with yours of the 10th, and I certainly am not very well pleased to find that Lynch's Post has been occupied by Settlers, when I so very clearly and so frequently declared my having allotted that portion to Major General Campbell ; this being the case, Mr. Sephton and his people are in the situation of any other people who have got possession of another person's property, *and they must move to be located elsewhere.* I am sorry for the inconvenience they will be put to, but it cannot be a serious or a material one, as I find that only *part* of Mr. Sephton's people are actually located, some of them being still on the road, and the part that has been improperly placed on Lynch's post has been there so short a time that they can neither have built nor ploughed. I am &c.

(Signed) R. S. DONKIN.

[Enclosure 3 in the above.]

UITENHAGE, 24th June 1820.

SIR,—His Excellency the Acting Governor having in his communications from George dated 13th and 14th Instant directed the future locations for some of the new Settlers, by which some of those parties already located are to be removed, I enclose a memorandum shewing the alterations made in consequence, and have to beg of you to notify to those parties who are to be removed, to hold themselves in readiness to remove accordingly. It is intended that the waggons bringing

on the Settlers now at the Bay will after putting them down on their lands, remove those who are to be put on other lands, to their proper locations, which waggons we are to expect at Algoa Bay for the purpose of bringing on the Settlers at present there, on or about the 1st of next month, and I hope no delay will take place in the speedy removal of the Settlers to their ultimate destinations. I have &c.

(Signed) J. G. CUYLER.

Extract of the Memorandum.

Mr. Sephton's party to be located on the Assagaay Bosch River, immediately above the place of Scalkwyk, leaving the entire of Joel Smuts or Lynch's Old Post for Major General Campbell who is expected. B. D. Bower, who is now upon this ground, to be removed. Mr. Menzies now at the Kasoga to be put on No. 51 on the Karega immediately above Parkins. Messrs. E. Ford and Hayman now on Lynch's post to be removed to No. 22 where they were first intended, above Siebritz's on the N. side of the same river.

[Copy.]

Letter from P. G. BRINK, ESQRE., to MR. THOMAS PRINGLE.

COLONIAL OFFICE, 20th February 1824.

SIR,—In reply to your letter of yesterday's date tendering on behalf of your Friends at the Baviaans' River to supply the Colonial Government with one hundred muids of wheat at fourteen rixdollars the muid to be delivered at the Government Farm Somerset, or at any post within that distance from the Baviaans' River, the delivery to take place on or before the first of June next, I am directed by His Excellency the Governor to acquaint you that he has been pleased to accept the same. I have &c.

(Signed) P. G. BRINK.

[Copy.]

Letter from P. G. BRINK, ESQRE., to MR. ROBERT HART.

COLONIAL OFFICE, 20th February 1824.

SIR,—I am directed by His Excellency the Governor to acquaint you that He has been pleased to accept a Tender presented by Mr. T. Pringle, on behalf of his Friends at the Baviaans' River, to supply the Colonial Government with one hundred muids of wheat at fourteen rixdollars the Muid, to be delivered at Somerset Farm, or at any post within that distance from the Baviaans' River, the delivery to take place on or before the first of June next. I have &c.

(Signed) P. G. BRINK.

[Copy.]

Government Advertisement.

His Excellency the Governor and Commander in Chief, has been pleased to direct the following Order of His Majesty in Council to be made public, for general information.

Cape of Good Hope, Feb. 20th, 1824.

By Command of His Excellency the Governor.

(Signed) C. BIRD, Secretary.

At the Court, at Windsor, the 19th September, 1823, Present, The King's Most Excellent Majesty in Council.

Whereas His Majesty was pleased, by His Order in Council, bearing date the 24th day of September, 1814, to establish certain Regulations therein set forth, touching the Trade and Commerce to and from the Settlement of the Cape of Good Hope, and the Territories and Dependencies thereof; and whereas His Majesty was pleased by the said Order, amongst other things, to direct, that Goods, Wares, or Merchandize, the Growth, Produce, or Manufacture of the Countries to the Eastward of the Cape of Good Hope, legally imported into the

said Settlement, or into the Territories or Dependencies thereof, might be exported from the said Settlement, or the Territories or Dependencies thereof, to the Ports of the United Kingdom, subject to the Rules and Regulations contained in an Act, passed in the Fifty-third Year of His late Majesty's Reign, intituled, "An Act for Continuing in the East India Company, for a further term, the Possession of the British Territories in India, together with certain exclusive Privileges ; for establishing further Regulations for the government of the said Territories, and the better administration of Justice within the same ; and for regulating the Trade to and from the Places within the Limits of the said Company's Charter," or to any Ports or Places to which a Trade in such Articles was permitted to be carried on from the said Settlement, or the Territories or Dependencies thereof, under the Provisions of an Act, passed in the Fifty-fourth Year of His late Majesty's Reign, intituled, "An Act for the further regulation of the Trade to and from the Places within the Limits of the Charter of the East India Company," and subject to the Rules and Regulations in the said Act contained, provided, however, that nothing in that Order contained should extend, or be construed to extend, to permit any Vessel, under the burthen of three hundred and fifty tons to export from the said Settlement, or the Territories or Dependencies thereof, to the Ports of the United Kingdom, any articles, the growth, produce, or manufacture of any countries, situated within the limits of the East India Company's Charter : And whereas by an Act, passed in the last Session of Parliament, intituled, "An Act to consolidate and amend the several Laws now in force with respect to Trade to and from the places within the limits of the Charter of the East India Company, and to make further Provisions with respect to such Trade ; and to amend an Act of the present Session of Parliament, for the registering of Vessels, so far as it relates to Vessels registered in India," so much of the said Act of the fifty-third year of His said late Majesty's reign, as authorizes His Majesty's Subjects to carry on Trade and Traffic to and from the Ports and Places within the limits of the said Company's Charter, with all the provisions, restrictions, and limitations in the same Act contained, for the regulation of such Trade, and for the disposition in the United Kingdom of

all articles manufactured of silk, hair, or cotton wool, or any mixture thereof, imported under the authority of the said last mentioned Act, from any Port or Place within the Limits of the said Company's Charter ; and the whole of the said Act, passed in the Fifty-fourth year of the Reign of His late Majesty, together with certain other Acts, passed in the Fifty-fifth, Fifty-seventh, and Fifty-ninth years of His said late Majesty's Reign, and an Act passed in the second Year of the Reign of His present Majesty, all which Acts relate to Trade to, from, or between Ports and Places within the Limits of the Charter of the East India Company, have been repealed : His Majesty is pleased, in virtue of the power vested in His Majesty by several Acts, passed in the Forty-seventh and Forty-ninth Years of His late Majesty's Reign, and in the first year of His present Majesty's Reign, and by and with the advice of His Privy Council, to order, and it is hereby ordered, that so much of the said Order in Council, bearing date the 24th day of September 1814, as relates to the tonnage of vessels importing from the said Settlement of the Cape of Good Hope, its Territories and Dependencies, to the ports of the United Kingdom, goods, wares, and merchandize, the growth, produce or manufacture of Countries to the eastward of the said Settlement ; and also so much of the said Order as subjects the exportation of such goods, wares, and merchandize to the provisions of the said Acts of the fifty-third and fifty-fourth years of His late Majesty's reign, be, and the same are, hereby revoked : And His Majesty is hereby further pleased to order, that such goods, wares, and merchandize so exported, shall be subject to the provisions of the said Act of the last Session of Parliament, so far as the same are applicable thereto, in like manner, as if such goods, wares, and merchandize had been exported from any port or place within the limits of the Charter of the East India Company.

And the Right Honourable the Lords Commissioners of His Majesty's Treasury, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein, as to them may respectively appertain.

(Signed) C. C. GREVILLE.

[Copy.]

Return of Settlers in Albany residing on their Locations on the 21st February 1824.

Names of the Men.	Names of the Women.	Number of Children.	Number of Men Servants.
<i>W. Smith's Location.</i>			
William Thackwray	Dorothy Thackwray	4	
John Thackwray			
David Hobson	Mary Ann Hobson		
<i>Captain Bagot's Location.</i>			
Robert Wood Bagot	Mary Bagot		
Robert O'Connor	Harriet O'Connor	2	
<i>Mr. Clarke's Location.</i>			
Jeremiah Honey	Ann Honey	3	
John Marshall			
William Wentworth	Frances Wentworth	2	
William Wentworth junior			
Thomas Kamkin			
<i>Major Pigot's Location.</i>			
George Pigot	Elizabeth Pigot		
	Catharine Pigot		
	Sophia Pigot		
Amos Boucher			
Richard Boucher			
Priestwood Boucher			
John Pancas	Lucy Pancas	2	
George Pratt			
<i>Captain Campbell's Location.</i>			
Duncan Campbell	Mary Ann Campbell		5
	Sarah Tilbrook		
	Jane Stroud		
<i>Mr. Stanley's Location.</i>			
John Stanley	Sarah Stanley		
<i>Mr. Liversage's Location.</i>			
Samuel Liversage	Harriet Liversage	6	
Richard Forrester	Mary Forrester	3	
William Mumford	Mary Mumford	4	
Abraham Robinson			
Thomas Manly	Mary Manly	7	
William Ford	Sarah Ford	1	
David Venables	Jane Venables	5	
James Cannon			

Names of the Men.	Names of the Women.	Number of Children.	Number of Men Servants.
<i>Morton's Location.</i>			
John Fournier		2	
William Calverly			
Thomas Calverly			
William Calverly junior			
Peter Daniel	Eliza Daniel	2	
George Blackmore	Mary Blackmore	4	
John Grimsdale	Mary Grimsdale	2	
	Ann Mitchley	6	
Peter Daniel junior			
James Willmot	Ann Willmot		
Benjamin Willmot			
William Bowles			
<i>Howard's Location.</i>			
William Howard	Elizabeth Howard	6	
	Sarah Cadle	5	
	Mary Burns	4	
Henry Harper			
John Poulton	Ann Poulton	10	
William Tarr	Susan Tarr	4	
Giles Willan	Rachel Willan	3	
Thomas Bainbridge	Elizabeth Bainbridge	3	
John Neland	Sarah Neland	3	
Edward Herly	Mary Herly		
James Watts		2	
Edward Hanger	Catharine Hanger	1	
<i>Morgan's Location.</i>			
Nathaniel Morgan	Mary Morgan	2	
George Phillip	Ann Phillip	3	
James Thomas	Martha Thomas	3	
Charles Kestal	Grace Kestal	6	
William Thomas	Elizabeth Thomas	5	
<i>Carlisle's Location.</i>			
John Carlisle			
Frederick Carlisle			
	Sarah Phillips	2	5
<i>Burnet's Location.</i>			
Bishop Burnet	Mrs. Burnet	1	
<i>Perkins' Location.</i>			
Benjamin Leech	Ann Leech	4	
<i>Menzies' Location.</i>			
Richard Bowles	Elizabeth Bowles	8	
William Marsh	Susannah Marsh	4	

Names of the Men.	Names of the Women.	Number of Children.	Number of Men Servants.
<i>Sephton's Location.</i>			
Hezekiah Sephton	Jane Sephton	4	
Thomas Norton	Elizabeth Norton	3	
Richard Pitstock	Frances Pitstock	1	
Thomas King	Sarah King	2	
Benjamin Rudman	Julia Rudman	2	
William Sergeant	Ann Sergeant	7	
Thomas Slater	Sophia Slater	4	
Charles Slater			
Joseph Wilmot	Susannah Wilmot	3	
Samuel Upcot	Mary Upcot	1	
Benjamin Patrick	Elizabeth Patrick	5	
Samuel Cyrus	Deborah Cyrus	6	
Charles Webb	Jane Webb	4	
William Matthews	Mary Matthews		
John Oats	Elizabeth Oats	2	
Christopher Croft	Mary Croft	2	
John Talbut	Ann Talbut	3	
Thomas Talbut		2	
David Hall	Ann Hall	3	
Abraham Oldham	Ruth Oldham	5	
James Hurry	Mary Hurry	6	
Richard Pitt	Lucy Pitt	1	
James Tremlett	Ann Tremlett	2	
Samuel Rudman	Ann Rudman	2	
Thomas Isted	Ann Isted	4	
Daniel Roberts	Harriet Roberts	2	
William Prynne	Jane Prynne	5	
John Filmer	Mary Filmer	6	
William Watson	Mary Watson	2	
Robert Short	Ann Short	5	
Richard Painter	Harriet Painter	4	
William Trotter	Ann Trotter	1	
Philip Dixie	Elizabeth Dixie	3	
Patrick Keevey	Mrs. Keevey	6	
Henry Gray	Mary Gray	3	
<i>Captain Butler's Location.</i>			
Thomas Butler	Elizabeth Butler	2	
Murtagh Byrne	Katharine Byrne	1	
William Mageer		3	
<i>Lieutenant White's Location.</i>			
Samuel Smith	Sarah Smith	3	
<i>Latham's Location.</i>			
Robert Dickason		4	
William Norman	Jane Norman	2	

Names of the Men.	Names of the Women.	Number of Children.	Number of Men Servants.
<i>Francis's Location.</i>			
Peter Ellar	Elizabeth Ellar	1	
Jonathan Shelver			
<i>Gardiner's Location.</i>			
Edward Gardiner	Mrs. Gardiner	4	
Isaac Dugmore	Jane Dugmore	5	
John Dudley	Sarah Dudley	3	
William Abbott	Mary Abbott	2	
Edward Dudley	Ann Dudley	2	
<i>Lieutenant Daniels' Location.</i>			
Richard Daniels	Mrs. Daniels	2	
James Daniels	Catherine Daniels	5	
Edwin Hanfield			
<i>Dalgairn's Location.</i>			
Frederick Williams	Sarah Williams	2	
Tobias Therit	Nancy Therit	2	
William Eatwell	Mary Eatwell		
Thomas Barrington	Dina Barrington	2	
<i>Mills' Location.</i>			
Charles Hill	Elizabeth Hill	4	
James Hill			
Total, 115 men.	95 women.	294	10

Settlers' Locations,
Fieldcornetcy of Graham's Town,
21st February 1824.

(Signed) GEO. DYASON, Field Cornet.

[Copy.]

Statement of Settlers who are now actually residing upon their
Locations within the Fieldcornetcy of Bathurst this
23rd February 1824.

	Men.	Women.	Children.
Mr. Hayhurst's Party	6	5	8
„ Wainwright's „	8	5	9
„ Mouncey's „	3	3	4
„ Bailie's „	19	18	39
„ Crause's „	4	4	7
„ Mandy's „	6	5	19
„ Rowles' „	1	3	5
„ Owen's „	1	3	4
Captain Scott's „	2	2	8
Mr. Cawood's „	11	6	15
„ Holder's „	3	3	11
„ Southey's „	3	2	11
„ Wilson's „	28	20	46
Hyman and Ford's „	20	13	34
Mr. Bowker's „	9	1	3
„ Richardson's „	7	6	16
„ Smith's „	16	13	32
„ Cock's „	27	17	47
„ Thornhill's „	10	3	5
„ James' „	11	10	30
„ Osler's „	3	3	10
„ Greathead's „	4	4	8
„ Dixon's „	2	2	9
„ Scanlen's „	5	3	6
„ Mahoney's „	3	2	0
Messrs. Brown and Stubbs' Party	3	3	11
Mr. Philipp's „	3	5	3
„ Bradshaw's „	11	8	27
Major General Campbell's „	2	2	6
Mr. Barker's „	2	0	0
„ Wait's „	3	1	0
„ Biggar's „	2	6	7
„ Dyason's „	5	3	9
Nottingham Party	29	19	47
Total on Locations	272	203	496
In Bathurst	26	21	34
In Kowie	9	9	24
On Mr. Nourse's farm	3	1	4
On Captain Trappes' farm	1	1	1
Total Settlers within the Fieldcornetcy	311	235	559

(Signed) W. CURRIE.

[Copy.]

Letter from the COMMISSIONERS OF INQUIRY to LORD CHARLES SOMERSET.

GRAHAM'S TOWN, 23rd February 1824.

MY LORD,—Referring to a Dispatch we have received from Earl Bathurst requiring our special Report upon the numbers and circumstances of Proprietors and Occupiers of Lands in the Frontier Districts more immediately with a view to compare the relative advantages enjoyed by those to whom Slave labour is still permitted over those to whom it is prohibited, and his Lordship having enclosed to us the instructions addressed to the Acting Governor Sir R. Donkin on the 20th May 1820 and to Your Lordship on the 30th September 1822, we have applied to the Landdrosts of the several Districts specified by Earl Bathurst for such information as will enable us to comply with the orders which we have received upon this Subject, and that we may be apprized of any information of which Earl Bathurst may have been put in possession previous or subsequent to the date of his Despatch to us, we do ourselves the honor of requesting that your Lordship will be pleased to furnish us with a copy of any Report that you may have addressed to Earl Bathurst in answer to His Lordship's Despatch of the 30th September 1822. We have &c.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 24th February 1824.

MY LORD,—It affords me much pleasure in being able to inform your Lordship of the complete success which has attended the establishment of a Sea Port at the Kowie and to communicate to your Lordship the flattering hopes I entertain from the readiness generally shewn to promote a trade with

that Port, that my most sanguine expectations of its ultimate utility will be realized.

Tho' the Schooner which I caused to be built for unloading promptly the Government Vessels resorting thither has been of essential service, I have found it indispensable, on a representation of the necessity thereof by Commodore Nourse who visited the Station, to direct the construction of 2 Boats to aid in that labour, and the expence thereof, amounting to Rds. 3,400, I beg your Lordship will sanction, and communicate your Decision to the Auditors of Colonial Accounts.

I have &c.¹

(Signed) CHARLES HENRY SOMERSET.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 24th February 1824.

MY LORD,—I have the honor to transmit to your Lordship the accompanying Copy of a letter from the Landdrost and Heemraden of Stellenbosch, bearing favourable testimony to the merits of Mr. Faure, Clerk to the Secretary of that District, and earnestly soliciting that an increase may be made to his Salary which is utterly inadequate for his support being only Three Hundred Rixdollars per annum; and I have to request your Lordship will be pleased to entertain the recommendation of the Board and assent to my increasing the Salary of Mr. Faure from Three Hundred Rixdollars to Five Hundred Rixdollars per annum to commence from the 1st inst.; Mr. Faure having continued in the Service during a period which has rendered him well deserving of this trifling addition.

I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure in the above.]

SECRETARY'S OFFICE OF STELLENBOSCH,
February the 2nd 1824.

MY LORD,—Mr. P. H. Faure, the only Clerk to the District Secretary whose Salary (300 Rixdollars per annum) is paid by Government independent of an allowance of 100 Rixdrs. allotted to him by the District for attending the Criminal Sessions of the Board as 2nd Acting Secretary, has represented to us the impossibility of his subsisting on the Scanty Salary he enjoys, whilst the daily increasing duties of the Office prevent him from providing in any other manner for his support, nearly the whole of his time being taken up in the discharge of those duties—therefore praying the Board to apply to your Excellency for an increase in his salary, and being convinced of the correctness of his statement, we respectfully take the liberty of submitting his case to your Excellency's favorable consideration—and beg leave to add that if no provision is made for the applicant we are apprehensive that he will be necessitated (though reluctantly) to leave a Service in which he has become very useful and to provide for himself in another manner. We therefore on the above grounds solicit that your Excellency may be pleased to make an addition of 300 Rixdollars per annum to his Salary, payable from the Colonial Treasury, the District Chest being unequal to bear this expenditure.

We nevertheless submit this our proposal to the better and more enlightened judgment of your Excellency, and have the honor to be with all due respect and esteem, My Lord, &^{ca}.

(Signed) D. J. VAN RYNEVELD, Landdrost,
R. L. NEETHLING, {
W. WIJUM, } Heemraden.

[Copy.]

Letter from MILES BOWKER, ESQRE., *to* LIEUTENANT RICHARD STANDISH HALY, R.N.

OLIVE TOWN, NEAR THE MOUTH OF THE COWIE,
ALBANY, *February 24th 1824.*

MY DEAR SIR,—You will long ago have heard of the difficulties the settlers have undergone since their arrival here by losing three, and nearly a fourth harvest, but Government having kindly helped them with daily rice during a good part of that time and rations for the two first years keeping great part of the deposit to pay for them, greatly mitigated these evils and things are now wearing a better aspect, as we have found a species of wheat, coarse indeed and rush straw, that in a great measure withstands the rust, our great enemy in agriculture, and being convinced that growing corn is not to be our staple pursuit, we attend now to Horticulture and planting rather than agriculture, still depending upon herds and flocks as our best pursuit. This last has been much checked by our treacherous and near neighbours the Caffres, who are only a few miles from us, and have been constantly stealing for these few last years both from Dutch and English to a very great extent, but Major Somerset having lately taken the worst of them by surprise and stript them severely, we hope they will be quiet in future or some severer punishment must be resorted to and they must be driven to a distance as it is only to order it and it may be instantly accomplished, as tho' a stout race of people, yet having nothing to cope with fire arms they are soon discomfited or destroyed.

For my own part, tho' my eight men that I took out with me as servants did me no good except by fulfilling my agreement with Lord Bathurst in securing me one thousand acres of location, yet thro' the help of my sons and their most excellent mother we have been able to get forward perhaps better than any other Settlers tho' several of them came out with large means which was far from our case, and we have now only to regret the distance we are from our dear friends and relations as in all other respects our prospects far exceed anything we could hope for in England. Upon finding our location unequal

to our means Government have kindly given us another place making it near 5000 acres with one and a half mile of sea coast, one of the finest spots in this country lying four miles from the mouth of the Great Fish river and five from the mouth of the Cowie, now become our seaport, and whilst many or nearly all are complaining, tho' not for want of land, for Government has in that respect been sufficiently liberal to such as could do it justice, we are getting on almost as well as we could wish. Our fruit trees tho' only three years from the stone or cutting, are bearing fruit. We have planted above 15,000 vines many of which are now bearing, and we have 20 different sorts of fruit trees and most of them will be fruitful to all appearance in another year, and we are preparing again for a similar plantation. Our prospects of improvement will be also much in feeding as in cattle, sheep, and pork, we can have an excellent market for it salted at the Cowie, where our cheese, which we make very good, as well as fat and hides, find a good market. Clothing is still very dear, tho' that is not likely long to be the case as the exchange has greatly fallen and our goods will be in future without land carriage. Land is now very much occupied in Albany tho' larger than Yorkshire, a good place may be bought for from £150 to £200 for 1000 acres, but it is encreasing in value as many people are now satisfied with the means of living here, the climate being for health and comfort almost without its parallel and its productions, the most valuable sorts may be made profitable such as tobacco, coffee, cotton, and drugs of very many sorts, oils &c., and it is a family's own fault rich or poor if they do not thrive. The Dutch here are all rich and they have not the industry of the English tho' they are careful and provident, many of them have here from 1000 to 10,000 sheep, and five or six hundred head of cattle more. Our population of all colours and many nations, Heathens, Mahometans, and every sect and denomination of Christians. This multitude is ill amalgamated and we have many tricks and thieving amongst them. We had no less than 64 cases or trials come before the Court of Session which is held monthly of which I am the Senior Heemraad or Magistrate, the Landdrost Mr. Rivers being our Chairman and Judge. The Court consists of six other Heemraad, of which my friends Major Pigot and Capt. Campbell were some time ago members but are now out,

there being parties here as well as in England, but we steer in the mean: We have many half pay officers both of the Army and Navy, and they do well as they endeavour. I have written you much of this long detail for your own and the information of Mr. Pitt your neighbouring Magistrate of Organ House and any others you may please to communicate it to.

I am to have a school on my place to which Government give to a master 200 dollars per annum and chapels and schools are now everywhere erecting. I am surrounded by the Frome, Warminster and Somerset parties who have given me great trouble to keep in peace but they are mostly thriving on about 230 acres for each family and they will get more land as they deserve it or can do it justice. We have plenty of fish and game and almost every description of wild beast from the Elephant and Hippopotamus to the mouse on my premises. My boys have become very dextrous in killing all sorts of monsters, who are glad to keep their distance and tho' often heard thro' the night are seldom seen. Our worst enemy is the large wolf dog which hunts in packs and will pull down an ox before our eyes in the day time. In other respects we are in a land of Myrtles and Evergreens, a land of milk and honey which is found wild in the trees and taken without killing the bees with little trouble. We have in very little been disappointed in this country as excepting the anticeptive disposition of every new soil to foreign vegetation and the rust before our arrival little known, we have found it equal to the general description given, and if the rust had not been so destructive I believe in point of progress this would have been for its time the first settlement put in action and I still think it will soon recover all its misfortunes and satisfy my Lord Bathurst's very best hopes.

We expect to see the *Arethusa* at our Port soon, she is trading on this coast. We expect most of the coasters will soon be here for goods for the Merchants, or stores for the frontier army. Most faithfully and affectionately yours,

(Signed) MILES BOWKER.

[Original.]

Letter from COMMODORE NOURSE *to* JOHN
WILLIAM CROKER, ESQRE.

HIS MAJESTY'S SHIP *Andromache*,
SIMON'S BAY, *February 25th 1824.*

SIR,—I have the honor to acknowledge the receipt of your letter of the 23rd of September last, with the copy of a letter from Sir Jahleel Brenton, on the subject of the proposed extension of the Wharf at Simon's Town, and with every deference to the opinion of an Officer of his standing, distinguished reputation, and local knowledge of this place, I am, upon the maturest consideration and minutest investigation, convinced that he is much in error, in some of his statements.

As their Lordships have in consequence of Sir Jahleel Brenton's opinions thought proper not to sanction any expense on the part of the Navy for the purposes set forth in my letter of the 11th July 1823, I should be departing from my duty to make any reply thereto; but as those opinions may seem to make my own statements unwise, or improper, I trust their Lordships will permit my humbly requesting their indulgence to be heard in reply to Sir Jahleel Brenton.

Sir Jahleel Brenton acknowledges the extension of the wharf at Simon's Town to be absolutely necessary for the convenience of Merchant Vessels; having long observed the decrease of water there by the accumulation of sand; (and this evil has increased since Sir Jahleel Brenton quitted the situation he held here) as this is the only wharf, there is the same absolute necessity for its extension for the convenience of His Majesty's Service, as for the Service of Merchant Vessels; and as but two Merchant Vessels, Dutch, have unloaded in this Bay since I have been on the Station, and Merchant Vessels do not use this Anchorage during six months of the year, and then only to obtain supplies of water and fresh provisions, it will be evident the principal wear and tear of the wharf is produced in its use for watering the King's Ships, and for all the supplies to, and from the Victualling department for His Majesty's Service, of which no mention is made in Sir Jahleel Brenton's letter: no other inconvenience appears to be stated in the letter, he reports upon, than a difficulty in obtaining water.

And, as the application for an extension of the Wharf was made to His Excellency by me, for stated public reasons, Sir Jahleel Brenton is mistaken in asserting "that it is well known that the principal object in view is to accommodate the Merchant Shipping and to facilitate the duties of the Custom House."

Sir Jahleel Brenton states "that he has always considered a Tank as of very great importance, but recommends, should their Lordships approve of the King's Ships being watered at the Dock-Yard, that it should be built in the Yard at the back of the Store Houses." I perfectly agree with him that a supply of water for the Navy independent of the Colonial Government might be desirable, but as I presume he would not recommend all the Victualling supplies to come thro' the Dock Yard, the King's Ships must still have recourse to the only wharf there is, for general purposes. And I think when it is considered that all the required advantages are to be obtained for one third of £320 sterling, the total Estimate for extending the wharf, and one third of £241 4s. the estimate for the Tank, it would be paying very dearly to be independent of the Colonial Government, to lay down pipes, to build a Tank in the Dock-Yard, and to project a Wharf as proposed by Sir Jahleel Brenton, which, I will very clearly prove would be attended with a very considerable expense, and after all, not so desirable as imagined by Sir Jahleel.

Should Sir Jahleel Brenton propose all the Victualling Supplies to come thro' the Dock Yard, which I cannot for a moment believe, the distance between the Town Wharf and the Dock Yard Wharf would, by reason of the increased distance, double the expense in labor, in getting the victualling Stores into the Victualling Store, and it will be seen by the plan I have the honor to enclose herewith, that the Wharf proposed to be projected to Sober Island by Sir Jahleel, would be still farther from the Victualling Store, with the inconvenience of passing all the Stores thro' the Town, and along the only Road for all the purposes of the Public. The plan will also show how very much mistaken Sir Jahleel Brenton is, in asserting that this Wharf may be built at much less expense. The Rock called Sober Island is a shelving rock with foul ground around it, and it would be necessary to throw out a jetty 50 feet beyond Sober Island to enable Boats to make use of it; and the jetty in the entire length must be 360 feet.

I am also very sceptical as to the advantages this Wharf would offer in sending Anchors off to Vessels in distress, or its importance in enabling ships' boats to take their supplies on board in the worst weather.

In the first case, Ships *in distress* in S. E. Gales, from parting from their Anchors, or driving, will be found very much to leeward even of the Dock Yard, and at this moment there is not a boat that could take off a larger anchor than a stream, and in such weather as it may be prudent to send off supplies in ships' boats, there is no difficulty in warping, or rowing up to Sober Island, under its lee, before stretching off to the ship.

With regard to Sir Jahleel Brenton's observation " that the Port Charges presents a Fund for all the purposes of the present Wharf " I send an extract from the Harbour Master's Book of the Port dues received in 1822 & 3, out of which the Harbour Master's Salary and Establishment is to be paid, and when the keeping the Wharf in repair, water pipes &c. is considered it will be evident there is little or nothing to spare. Part of the Expense for laying down the present pipes for conveying water to the Jetty was originally paid by the Naval Department and if the Colonial Department extend the Wharf at their own expense, they perhaps might levy a Wharfage duty ; which was formerly done on Government Stores landed at the Wharf at Table Bay. And I am given to understand that difficulties still exist in that respect.

They may also object to any separate supply of water, there being but one source, from which all the Town and public Buildings are supplied.

The difficulty, also (which I am aware Sir Jahleel Brenton is fully sensible of) of engaging the Colonial Government to undertake any expense that may benefit the Naval Department, when it may be deriving any conjunct benefit without that Department agreeing to pay a proportion of the expense is such, that there is no expectation of the inconvenience complained of, being remedied. I have &c.

(Signed) JOSEPH NOURSE, Commodore.

The Port Dues received are shown in the returns enclosed to have been Rds. 1893 in 1822 and Rds. 2337 7 schs. in 1823.

[Original.]

Letter from MR. JOHN FOULGER to R. W. HORTON, ESQRE.

25 ROOD LANE, FENCHURCH STREET, 25 February 1824.

SIR,—I feel confident from the politeness evidenced towards the deputation on behalf of the distressed Settlers at the Cape of Good Hope, that I may be permitted to occupy your time for a few moments.

I beg to inform you that since the deputation had the honour of an interview with yourself and Earl Bathurst, that a private meeting has been held in the City, a Committee chosen, and a string of resolutions this day passed; which resolutions it is the wish of the Committee to advertise.

The object of my communication at this time is this, My Lord Bathurst most politely and condescendingly said when the deputation had the privilege of an interview with him, that we had his permission to make any use of his name, calculated to promote the object we have in view; but the Committee do not feel justified in availing themselves of his Lordship's permission without submitting for his approbation what they have prepared; and I have to beg you would be pleased to allow the same deputation an early opportunity of exhibiting to yourself and his Lordship the resolutions. I need not say with what satisfaction the Committee received his Lordship's communication.

May I be excused, if I urge an early audience, as we only wait his Lordship's approbation to commence advertising.

I have &c.

(Signed) JOHN FOULGER.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 27th February 1824.

MY LORD,—In consequence of being assured that a Paper in the form of a Memorial will be or has been forwarded to the

Lords Commissioners of His Majesty's Treasury containing various assertions relative to the conduct of Charles Blair Esq., Collector of Customs at this Port, and conceiving it possible that their Lordships may refer it to your Lordship's Department, I feel it an attention due to your Lordship to transmit copies of the documents which have passed on, and which have been originated by, this subject, and to make a few observations which may tend to prevent your Lordship from being misled by the bold misrepresentations embodied in that Document. Your Lordship will not fail to observe that in Mr. Blair's letter to me he asserts that the greater part of Mr. L. Cooke's Statement complaining of Mr. Blair's conduct to him is false. Mr. L. Cooke having abandoned the action he brought against Mr. Blair for redress, gives reason to infer that Mr. Blair was correct in this assertion.

With regard to the observations made relative to the apprentice John Elle I have to observe that the Collector of Customs being the Curator of all Negro Apprentices condemned as Prize and apprenticed by him in obedience to His Majesty's Order in Council, it is his bounden duty when an apprentice has lost his Master to call him in and re-apprentice him for the remaining Term of his Apprenticeship with such Person, as he shall believe will treat the apprentice with humanity and will adhere to the conditions of the Indenture.

As to the Apprentice being free, and not a Slave previous to his Apprenticeship, it was not a point for Enquiry in the Collector of Customs, who was bound in his public duty to apprentice the Negroes delivered over to him as prize under a Decree of the Vice Admiralty Court.

It will not escape your Lordship's observation that Mr. L. Cooke who asserts the Freedom of this man previous to his Apprenticeship had no scruple to hire him (without the knowledge of the Collector of Customs) of the person to whom he was indentured during a period of 6 years, paying his Master 35 Rix dollars per mensem, but paying the *Free* man—nothing. If Mr. L. Cooke's motives were pure and he really believed the man had a right to Freedom, it would have been more consistent with the Philanthropy he desires credit for, to prove it and release him from bondage than to confirm that state of Bondage by hiring his Services of his Master.

With regard to William Cousins I have ascertained that the whole is a misrepresentation. At the expiration of that man's apprenticeship Mr. Blair gave him much larger wages than it is customary to give to Black Servants here, and the man became so addicted to intoxication that he was compelled to dismiss him from his Service.

Your Lordship will attach but little credit to the general slander which Mr. L. Cooke deals out against Mr. Blair in the execution of his Duties, from the mode he has chosen in asserting it. Were there the slightest foundation for his assertions I conceive Mr. L. Cooke would represent special cases to the Governor of the Colony, who being on the spot can investigate and redress grievances, but Mr. L. Cooke states no specific case, but passes by the Local Authority and carries his accusations to the Lords Commissioners of the Treasury, who from distance alone are precluded from the means of ascertaining their Truth or Falsehood.

The subsequent correspondence and the petitions to the House of Commons will evince to your Lordship the sort of character Mr. Edwards is, into whose hands and guidance Mr. L. Cooke has fallen. When His Majesty's Commissioners come to the Custom Department in the course of their Investigations here, your Lordship will be better informed of the Conduct of its Officers than by such compositions as emanate from Mr. Edwards' pen.

I have to add that Mr. L. Cooke is now under prosecution for his Libel against Mr. Blair, and Mr. Edwards (who conducts the defence) has been committed to prison for a month by the Court for persisting (after having been twice warned) in abusive and indecorous language towards it. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Copy.]

*Letter from the REVEREND WILLIAM GEARY to the
COMMISSIONERS OF ENQUIRY.*

GRAHAM'S TOWN, *February 28th 1824.*

GENTLEMEN,—Is there no redress for such base Calumnies against the character and conduct of a Clergyman as I have just seen recorded in the *Cape Town Gazette*? Of the crime of illuminating, it is with a mixture of pleasure and pride I confess myself guilty, and I pity those who from any motives could refrain to afford such quiet and peaceable demonstrations of joy in honor of the arrival of Authorities determined to do their duty with fidelity, equity, and honor, and in gratitude to the British Government for this mark of its solicitude for the comforts and privileges of its loyal and oppressed subjects.

I assure you, Gentlemen, that my cheering the Mob consisted only in exchanging a few *whispers* with Mr. Dietz, the Heemraad, whom I accidentally met in my solitary and tranquil walk, whose utmost limits extended from the front of my House to a little way past the jail and back again, the time I was out *probably* did not exceed 10 minutes, it was *certainly* not longer than a quarter of an hour. No other Individual did I address, or even meet that I had any knowledge of, nor was I either a Spectator or Hearer of the stated riots, having retired to my habitation for the night, before the interference of the Landdrost and Commandants, which I never heard of till the next morning.

I request permission to lay before you Copies of Letters, the first addressed to the Chaplain General, and the other to Major Somerset. I further solicit the favor, Gentlemen, of laying before you a Copy of an Official Document I received by this Morning's Post (the official letter dismissing me from the Military Chaplaincy).

I have not a doubt, Gentlemen, that some fresh provocation is meditated against me to excite me to expostulate, which will furnish an excuse for my *complete* dismissal. I cannot suffer the Calumnies in the *Cape Gazette* to go unrefuted; they seem inserted for that purpose, and I have no other alternative

than to address an official letter to His Excellency demanding justice against the Editor for inserting so foul a slander against me, as well as redress against its author, and even commenting on the falsehood to the injury of my public Character.

I have &c.

(Signed) WILLIAM GEARY.

[Copy.]

*Letter from the COMMISSIONERS OF ENQUIRY to the
REVEREND WILLIAM GEARY.*

GRAHAM'S TOWN, 29th February 1824.

SIR,—We have the honor to acknowledge the receipt of your Letter of yesterday's date, in which you complain of a libellous misrepresentation in the Cape Town *Gazette* of your conduct on the night of the illuminations in this Town.

We certainly cannot but regret to find that any statement calculated to expose you to the censure as well as ridicule of the Community should have found its way into the *Gazette*, and we see with satisfaction your anxiety to rescue your name and sacred character from imputations which if true would be discreditable to both. While we imagine that the ordinary mode of redress is open to you against the Editor of the *Gazette*, we think that you will not do wrong in addressing yourself previously to His Excellency the Governor, with a view to convince him that the account given in the paper is false, and in doing so we cannot forbear recommending you to avoid as much as possible any reference to past transactions unconnected with this subject, or the introduction of topics which may only have the effect of diverting his Lordship's mind from the consideration of the falsehood of the imputation with which you have thus publicly been assailed. We have &c.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

[Original.]

*Letter from the FISCAL to R. WILMOT HORTON, ESQRE.*CAPE TOWN, CAPE OF GOOD HOPE,
the 29th February 1824.

SIR,—His Excellency the Governor having received from one Mr. William Edwards a letter, bearing date the 11th inst. covering a Petition to Parliament, which Mr. Edwards therein thought proper to require His Excellency to forward to you, on finding that my name and character as His Majesty's Fiscal was therein contumeliously treated, has been most graciously pleased to transmit the same to me, and I now avail myself of the kindness of His Excellency in offering to forward you this letter, to which I take the liberty to join a copy of Mr. Edwards' letter to His Excellency and his original petition whereof a copy does remain in my possession, it being my intention to prosecute Mr. Edwards for the calumnies contained in this petition.

Confident as I am that the style and phraseology of the petition, and the very great contempt with which I am therein treated will place the spirit of the same not to say the sentiments of the writer thereof in its true light, before yourself or any authority to which the same may be presented, I cannot but acknowledge that it would be still an inconsiderateness to treat even the most transparent calumny of my enemies with too much levity. I therefore hope you will excuse the liberty I take, in submitting some remarks to your consideration to obviate his injurious intentions.

I am represented in the Petition to be a native of Amsterdam and in consequence not to be entitled to hold an office of trust under His Majesty ; not even in this Colony. If having resided in this Colony for more than 21 years, having during all that time enjoyed equal rights with other native Inhabitants, and shared with them the vicissitudes to which this Colony has been exposed, not having sworn allegiance to any still subsisting Government excepting that of His Majesty, having now about

12 years, in the course of which Providence has blessed me with a family of six children, all British born subjects, served His Majesty in the capacity of Fiscal, and having I am happy to say constantly experienced His Excellency the Governor's implicit reliance in the integrity of my official conduct, would not entitle me to the continuance of the trust, hitherto reposed in me, I would be at a loss to guess what better pledge for my true and faithful allegiance to His Majesty could be offered.

Mr. Edwards has further represented me in the Petition as a man, by whom he had been treated in a very rude and haughty manner, and has referred to the affidavits of Gentlemen, who on the 11th inst. accompanied him in my office. As I am ignorant of what these affidavits may contain I cannot judge of the truth or inaccuracy thereof ; yet I recollect that in the morning of the 11th inst. being in my office I was informed, that Mr. Notary Edwards was waiting at the door of my apartment, accompanied with two witnesses and requested audience, he was soon admitted, but the little knowledge I had acquired of Mr. Edwards's character during his stay of some months only in this Colony prompted me to request the presence of four of the Gentlemen in my Department, to witness the conversation which might happen to take place between Mr. Edwards and myself ; and I am confident their judicial evidence, in case it may be requisite to have recourse thereto, will sufficiently explain how I have conducted myself on the occasion. My knowledge of the character of Mr. Edwards I allude to, is founded on the circumstance of his having been condemned to a penalty for having grossly insulted an Inhabitant in his own house, his having in the course of the proceedings in that case conducted himself in a disrespectful manner towards the judge, and his being actually in the state of *reatus* for the crime of publishing Mr. Cooke's Memorial against the Collector of the Customs mentioned by him in the Petition, which under the existing circumstances, the same not having been presented to that authority which I thought competent to judge of the Collector's conduct towards Negroe Apprentices and bearing moreover evident marks of the most mischievous intention, I cannot view in any other light but

as a libel. To this it may be added, that on the 3rd inst. when he was informed by me that the Duplicate of said Memorial was in my hands, although I did not say His Excellency has instructed me to prosecute *him*, Mr. Edwards has conducted himself in my office in a very unbecoming manner, by threatening to make whoever might have *intercepted* the memorial (such were his expressions) atone for his conduct, and thereby has occasioned me to put a stop to all further conversation on the subject, for fear he might go on in the same strain.

Whilst I write this, Messrs. Cooke and Edwards are under my prosecution for libelling, and such has been the conduct of Mr. Edwards in the Court, that the Judges having repeatedly warned him not to forget himself, were at last compelled on the 16th inst. to commit him for one month for contempt of Court.

That part of Mr. Edwards's Petition wherein he has charged me with having winked at crime in office, sanctioned inhuman cruelty, oppression in authority, lent myself the minion of power, to punish those who were seeking to do what it was my duty to have done, being the subject of my intended prosecution for calumny I will do myself the honor to inform you of the result of my proceedings, as therefrom I expect it will appear whether or not I ought to be subjected to such criminations.

The charge contained in the prayer of Mr. Edwards's Petition, that I should have intercepted the Memorial of Mr. Cooke hardly requires to be noticed, the same having been transmitted to me from the Colonial Secretary's Office—as a libel—for enabling me to prosecute the offenders. Nor do I think my having refused to Messrs. Cooke and Edwards, what therein has been called their passport, will be by you considered worth a moment's consideration, as my prosecuting Messrs. Cooke and Edwards, on the charge of libel, prevents my doing any act which might defeat the object of my prosecution, by co-operating in their avowed intentions without the least delay to quit the Colony.

I take the liberty herewith to annex translation of the Sentence whereby Mr. Edwards has been condemned to a penalty of one hundred and fifty Rixdollars, for having insulted

Mr. Venables in his own house, which penalty when called upon to satisfy the condemnation he declared himself unable to pay. I have &c.

(Signed) D. DENYSSEN.

P.S. Since writing this I thought it better to retain the original petition, and I have the honor to send a Copy as above.

(Signed) D. DENYSSEN.

[Copy.]

Memorial of Wine Growers, Merchants, and others.

February 1824.

At a General Meeting of the Wine Growers, Wine Merchants, and others interested in the Wine Trade of the Cape of Good Hope, assembled at the Commercial Exchange, for the purpose of taking into consideration the means best calculated to prevent the imposition of any additional Duties on the importation of Cape Wines into the United Kingdom :—

His Honor Sir John Andreas Truter, Knight, LL.D., Chief Justice, in the Chair—

It was resolved unanimously,

“That a Memorial be forwarded, through His Excellency the Governor, respectfully submitting to His Majesty’s Government a *bona fide* statement of the amount of Capital actually employed in the Wine Trade of this Settlement—the encouragement and pledge under which the greater part of this capital has been invested—the vast importance of the Wine Trade to this Colony, and the ruinous consequences which would result from any increase in the Duties on the Importation of Cape Wines into the United Kingdom ; or from any alteration in the existing rate of Duties on the Importation of Cape and Foreign Wines, unfavourable to the Cape Trade :

“That a Committee be formed for the purpose of preparing such Memorial, from the persons most largely interested in, or capable of giving the best information upon this subject.” —

The following Committee was then appointed :—

Clement Matthiessen, Esq. President,
J. W. Stoll, Esq. Landdrost of the Cape District,
D. J. van Ryneveld, Esq. Landdrost of Stellen-
bosch,

Messrs. Alexander M'Donald,	P. M. Brink,
Gabriel Vos,	John Collison,
Wm. Robertson,	G. H. Meyer,
J. Rossouw,	Daniel Dixon,
R. W. Eaton,	John Breda,
Michael Breda,	Hen. Muller,
Stephen Twycross,	Peter Woutersen,
P. J. Pentz,	James Nisbet,
John Beck,	(Of Cape Town.)
P. van der Byl,	} Stellenbosch,
P. L. Cloete,	
Francis Roos,	
P. Marais,	} Drakenstein,
Corns. Brink,	
J. de Villiers,	
W. Versfeld,	} Wynberg,
Thos. Dreyer,	
A. P. de Villiers,	Clapmuts,
D. Hugo,	Fransche-hoek,
J. M. von Helsdingen,	Hout Bay,
P. le Roux,	Waggon-makers Valley.
Jno. Saml. Merrington,	Hon. Sec.

The Committee having been most readily and obligingly furnished with all such Official Returns as were required, and having had communications with most of the principal Wine Merchants and Wine Growers, have prepared the following Memorial :—

See page 128.

[South African Journal.]

Description of the Zuurveld.

Our first view of the Zuurveld was from the summit of the steep hills that bound to the southward the valley or kloof in which Graham's Town is situate, and which we crossed in our

way to the Hottentot village of Theopolis, on the river Kasouga. From this elevated ridge we had at once under our eye the whole country over which the English locations are scattered,—bounded by the ocean in front, and by the Bosjesman's and Great Fish rivers on the right and left. This extensive district, (restricting it to what was originally and properly denominated the *Zuurveld*,) may be described as an immense plain, sixty or seventy miles long, by about thirty broad; calculating its length from the Bosjesman's to the Fish river, and its average breadth from the sea beach to the parallel range of mountains that extend from the Fish river to Assagay Bush. Though I have called it a *plain*, however, it is very far from exhibiting, over the greater part of its extent, anything like a level surface. Near the coast it is much diversified by small hills, and gently rising grounds, and for the most part flows into an easy undulating outline. The streams or rivers, also, which issue from the range of mountains we now stood upon, have in many places intersected it with deep and broad ravines, the sides of which are almost everywhere clothed with an impervious forest or jungle of evergreens. On this account it is very difficult to cross the country from east to west with wheel carriages; and to travel along the banks of the rivers is still less practicable, from the innumerable gullies or kloofs, choked up with thorny copsewood, that run down to the deep channels of the rivers from the plains on either side. By keeping aloof however from these subsidiary kloofs, and crossing the river-glens at convenient places, one may travel over the *Zuurveld* easily and pleasantly, especially on horseback. In speaking of *rivers*, I ought to remark that this appellation is applied by the African colonists to every brook that merely exhibits a stream of running water, and even to many that can only occasionally claim that distinction; so that the term often appears very ludicrously used to a European apprehension. But indeed the rivers of the Cape Colony, with scarcely an exception, are little else than periodical torrents, usually flowing with a diminutive, and frequently a brackish streamlet, at the bottom of a large chasm or glen, the banks of which rise on either hand steep and shaggy with wood, like the side of a mountain; so that in many cases it will take one a full hour to cross from the top of one bank to the other, although the *river* at the bottom will

scarcely wet your horse's hoof as you ford it. But then these tremendous yawning gulphs when filled by the sudden and excessive rains to which this climate is occasionally subject are swollen "from bank to brae," with a mighty and furious torrent, which defies all controul, and obstructs all passage.

The forest or jungle, (for it partakes of both characters,) which clothes the steep and rugged ravines that border the rivers of Albany, and skirt the boundary ridge of mountains, are still inhabited by herds of buffaloes and some species of the antelope and the hyæna. But the elephant has retreated since the arrival of the Settlers to the more impenetrable and solitary forests adjoining the Fish and Bosjesman's rivers. The countless herds of springboks, hartebeests, quaghas, and other large game, described by former travellers as frequenting the open pastures and adding so much life and beauty to the lonely landscape of Albany, have also almost totally disappeared; and with them the lion,—who is however far from being such a poltroon as Mr. Barrow supposes. The Settler is well rid of the *feræ naturæ*, and has had in fact little cause to complain of the wild beasts, except from the occasional ravages of the ravenous but cowardly hyæna among his flocks, or of straggling troops of springboks on his green corn.

In travelling over the open plains and savannahs of Albany we found everywhere a sandy soil of grey, yellow, or blackish hue, generally upon a clayey bottom; clothed in many places with a closer and more verdant turf than I had seen anywhere else in the colony; in others waving under a rank crop of long spiry grass, among the roots of which the loose mould was often turned up and traversed by myriads of grey moles and field mice. The herbage though abundant was almost universally of the description called *sour*; but varying very much in quality and appearance in different soils and situations. The quality of the soil likewise varied very considerably in different places, but except under the woods, it appeared to be generally meagre, and of a description that would require great assistance from manure to render it permanently productive.

We also here and there discovered large patches rendered barren by the excessive prevalence of salt-petre. But the entire want of fresh water in some places, and the precarious-

ness or brackish quality of many of the brooks and fountains that existed, together with the impracticable character of the river banks, and the extreme poverty of the soil over a large extent of the more open country, appeared to present more formidable obstacles to the existence of a dense population, or a very extended and successful agriculture; and rendered, in fact, no inconsiderable portion of this district entirely unavailable for any other purpose than occasional pasturage.

The general aspect of the country was, nevertheless, fresh, pleasing, and picturesque. The verdant open pastures, and smooth grassy knolls, formed an agreeable contrast with the dark and dense masses of the sweeping forests, which clothed the deep glens and broken country near the river courses. The undulating surface of the champaign country was moreover often pleasingly diversified with scattered groves or large straggling trees, intermixed with thickets of evergreens and clumps of mimosas. In the lower bottoms, wherever a brook or fountain had been discovered, and the light mould washed from the higher grounds presented a richer and deeper soil for cultivation, we found the poor Emigrant at work in his field or garden; his reed hut or wattled cabin generally placed on the side of some narrow valley, under the shade of a grove or thicket; his cattle kraal and sheep-fold, his garden fence, and even the division boundary from his neighbour's field, or the common lane, often carefully ditched and wattled with that peculiar neatness and taste which the English peasant alone displays in such circumstances.

The exertions no doubt of many of the new Colonists appeared in some cases rather preposterously applied; and much inexpertness and mismanagement might be discovered in their farming operations. This was naturally to be expected from the class of people that composed the mass of the Emigrants, in which was included but a very small portion of practical agriculturists. To this cause partly, and partly to the decided taste of the English for trim and tidy appearances, I ascribed that attention to external embellishments, in preference often to things of more direct utility, which we observed in some of these locations. The Scotch on the contrary, though perhaps as Settlers, (whatever may have been their previous occupation,) they generally exhibit an

industry more persevering and better directed, are apt to postpone minor comforts and conveniences somewhat too long. Keeping profit and utility steadily in view, they allow embellishment, and even accommodation, to wait their leisure.

On surveying the Locations of the English Settlers during this journey, my companion was strongly impressed with the conviction, that many of them had fixed their residence too near the course of the brooks or temporary torrents, which are apt to ravage the bottom lands and occasion immense damage to the cultivated ground in every part of the Colony ; and he pointed out to me, and to several of themselves, the marks of former deluges on the trees and banks, higher than some of the huts they inhabited, or the fields and gardens they were cultivating ; but as these vestiges of destruction appeared old and indistinct, the notice of them did not seem to produce any strong impression.

The houses they then inhabited, or were erecting, were chiefly of the description termed "wattle and daub,"—that is, a frame of posts surmounted by a thatched roof, and wattled up to the eaves with limber boughs or saplings from the nearest thicket ; the inner divisions constructed of the same materials ; and the whole plastered with clay. And when neatly smoothed over and whitewashed, and embellished in front by the trim garden plot and wattled fence, these cabins often looked extremely handsome and picturesque, as we came suddenly in sight of them peeping out from the skirts of the ancient forest, or embowered in some romantic wood or evergreen shrubbery. But though readily and cheaply constructed where materials can be so easily obtained, and apparently not ill adapted for a climate usually so mild and dry as that of Albany, it must be owned that these elegant but slender edifices are quite inadequate to withstand the terrible floods and storms which occasionally ravage every part of this Colony,—as the Settlers, to their cost, have at length fully experienced. And even in ordinary seasons these fragile dwellings would require constant attention and frequent repair. The Settlers probably discovered the defects of the "wattle and daub," before the close of the second season ; but some were by that time too much disheartened by their distresses, and others too much reduced in means, to erect dwellings of a more durable description. A

good many, however, had built houses of brick, stone, or "Devonshire Cob," and a few had imitated the African Boor, in constructing solid walls of tempered clay, which in a country where lime is too expensive to be used for cement,* is probably the most secure and eligible material for ordinary farm buildings. Mistakes in matters of this sort, and others equally important, might readily be expected from people without experience of the climate, and, for the most part, without any knowledge of rural affairs. They might, and doubtless did, derive some advantage from the practical knowledge of their few Dutch and Hottentot neighbours; but like most other men, they were probably apt, in ignorant pride, to despise the advice of those whose information they were otherwise too much disposed to undervalue.

[Original.]

*Letter from LORD CHARLES SOMERSET to
R. WILMOT HORTON, ESQRE.*

CAPE OF GOOD HOPE, 1st March 1824.

SIR,—I have the honor at the request of His Majesty's Fiscal here to transmit to you a Letter from that Gentleman covering a Petition from a man named Edwards not long

* The Houses even of the best description in this Colony, owing to the great expence of lime, are built with clay for mortar or cement, and many of them plastered with the same material, mixed with fresh cow dung. This method answers well enough under ordinary circumstances, in a dry climate. But when our periodical deluges occur, and the heavy incessant rains, favoured by furious winds, penetrate through the outward facing into the heart of these clay built tenements, they are almost sure to give way. It is the opinion of some experienced persons, that if the severe rains which visited the western part of the Colony in 1822, had continued a few days longer, the greater part of Cape Town would have been demolished. As it was, immense damage was sustained. Shell-lime, which is extremely expensive, is exclusively used at the Cape. But there is plenty of lime-stone near the Great Fish River, and bush enough to burn it. Could the mouth of that river be opened for navigation, (which so far as yet appears has not been ascertained to be impracticable,) this lime would become useful ballast.

since arrived at this place, which the latter pretends has been or will be forwarded to Mr. Hume and Mr. Grey Bennet.

The annexures to my Despatch to Earl Bathurst (No. 75) forwarded by the present opportunity will considerably elucidate the general character of Mr. Wm. Edwards.

I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Copy.]

Return of Troops on the Frontier on the 1st of March 1824.

Corps.	Sergeants.	Drummers or Buglers.	Rank and File.	Total.
Rocket Troop	2	2
Royal Artillery	1	..	27	28
Royal Engineers	1	..	10	11
6th Regiment	15	5	369	389
Cape Cavalry	20	4	236	260
Cape Infantry	20	8	217	245
				—
				935

(Signed) A. A. O'REILLY, Brigade Major.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 2nd March 1824.

MY LORD,—In compliance with the Wishes expressed by Your Lordship in Your letter of the 21st August last, marked Private, I have the honor to transmit to Your Lordship a

Certificate of the late Colonel Robinson's Marriage at the Cape with Miss Deneys, and of the birth of the first Child of the Parties. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Copy.]

Letter from the REVEREND WILLIAM GEARY *to* LORD CHARLES SOMERSET.

GRAHAM'S TOWN, *March 2nd* 1824.

MY LORD,—I have the honor to inform your Lordship that the Cape Town *Gazette* of the 21st ultimo contains a paragraph concerning me as wounding to the feelings of a Gentleman as it is insulting to the sacred character of that profession which I have been appointed to exercise in the dignified office of an English Clergyman of the Established Church. I therefore take the earliest opportunity of vindicating my conduct from the libellous aspersions of the Author of this Article, (which if true, would have proved me under the influence of insanity or ebriety) by assuring your Lordship that I have abundant evidence to testify that the whole of that production is as destitute of truth as it is disgraceful to the pen and heart of its wretched fabricator.

Your Lordship's love of justice and jealous concern for the interests of morality, as well as attachment to the Established Church, are so unequivocally avowed by the pen of your Excellency in documents which I have the honor to possess, as to render it scarcely necessary for me to solicit that this my formal protest against the veracity of the Writer may appear in the earliest *Gazette*, with a view of removing, as far as possible, the feeling which is now so cruelly operating to my prejudice in the public mind, and I submit to your Lordship's consideration whether common feelings of humanity and equity do not require that so base a Calumny should receive its speediest refutation in as public a manner as it has dared to make its appearance ?

I therefore respectfully address the fountain of Government, humbly entreating your Lordship that the Editor of the said *Gazette* be required in that paper to make a penitent acknowledgement of his Offence as an Apology to an insulted public, for such an outrage on the laws of civilized Society as the insertion into a public journal, (whose circulation is not confined to Africa) of vague and unauthenticated Communications, containing most palpable falsehoods and grossly reflecting on the conduct of an individual belonging to a Class of public men which are considered sacred even among Savage tribes, and whose usefulness to the World has so intimate a connexion with the credit and estimation in which they are held by the Community around them.

I have also, therefore, most humbly to solicit that the Editor be compelled to give up the name of the Writer of the Libel that he may be prosecuted with the utmost rigour which the Law can inflict, and which, I am persuaded, your Excellency will perceive the preservation of the public peace and indeed the very safeguards of society require.

In adverting to the charges of my Calumniator, as far as respects the one of illuminating my House, I have no hesitation, my Lord, in admitting its truth, but permit me to add I was far from being, as the Writer asserts, "one of the first to do so," tho' had I even had the honor of taking the lead on an occasion so interesting and one so joyous to the Town and the District in general, I should have judged my conduct deserving of praise instead of censure in being the foremost to evince such customary, yet quiet demonstrations of respect to our Honorable Visitants in their capacity of High Constituted Authorities, specially appointed to their dignified functions by the united voice of the British Legislature, and despatched from our beloved and regretted Country on an errand so truly noble and beneficial, as well as to testify my gratitude and loyalty to the British and best of Governments in affording such proofs of its paternal care and solicitude for the welfare and happiness of its Colonial Subjects.

The cruel way, My Lord, in which I have been assaulted, excites one general feeling of indignation here, and I take the liberty of submitting to your Lordship a Copy of a Letter from an individual who is a perfect stranger to me, and with whom

I have never had any further Communication than to convey to him a letter of thanks for his unsolicited kindness.

I have &c.

(Signed) WILLIAM GEARY.

[Copy.]

Letter from the REVEREND WILLIAM GEARY *to*
MAJOR SOMERSET.

GRAHAM'S TOWN, *March 4th* 1824.

SIR,—I beg leave to say I feel obliged to you for your ready compliance with my request in favoring me with a perusal of the General Orders of the 19th Ult., the former part of which contains an expression of thanks from His Excellency the Commander of the Forces to the Officers and Men employed on the night of the 4th Inst. for (what Mr. Rivers the Landdrost of Albany has declared) “quelling a tumult of a most dangerous nature,” and the latter simply announces my dismissal from the Military Chaplaincy. Had any *reason* been assigned in the General Orders for my removal, (as is the case in my letter from the Military Secretary) I should not, Sir, have troubled you on the present occasion. But you are not ignorant that in the *Cape Town Gazette* of the 21st ultimo there is a most slanderous reflection on my conduct, the fabricator of which states that I took a disgraceful part in those Riots which the Landdrost affirms to have existed, so that every reader of the *Orderly Book* will from henceforth naturally infer that the cause of my dismissal was taking an active part, (and under the circumstances most degrading to a Clergyman,) in “a tumult of a most dangerous nature.” You must by this time feel convinced, Sir, that at the period when my Libellor asserts “I was out in the streets cheering the Mob most loudly,” I was *sitting very quietly writing in my own habitation!* which I have *abundance* of evidence to prove.

I therefore submit to you, Sir, whether common justice does not require that this ambiguity in the General Orders be

removed and my Offence clearly and specifically stated, for whatever personal injuries of a private nature I feel it my duty as a Christian and a Clergyman to excuse, I am neither ashamed nor afraid to avow my determination to repel and resent any insult to me in my public and professional capacity, by *whomsoever* offered, and *whatever* be the consequence. You will not therefore wonder if in conformity with such a declaration I feel most anxious to wipe off every suspicion of my having been concerned in a Riot, nor can I permit myself to rest till I have exhausted every effort to clear my character from so base an imputation, and one no less abhorrent to my feelings as a Gentleman than disgraceful to my profession as a Clergyman. I therefore beg Sir to be informed if you will undertake to have an omission in the Order so important to my public Character supplied, in order to do away the necessity which I shall otherwise feel myself under of troubling His Excellency with a 2nd public letter. I have &c.

(Signed) WILLIAM GEARY.

[Original.]

Letter from LORD CHARLES SOMERSET *to the* COMMISSIONERS OF INQUIRY.

NEWLANDS, *March 5th* 1824.

GENTLEMEN,—I am honoured by the receipt of your Letter of the 23rd February, and in reply have to state that I have as yet made no report on the Subject of Earl Bathurst's Despatches of the 20th May 1820 addressed to Sir Rufane Donkin and of the 30th September 1822 addressed to me. On the 18th of October last I did myself the Honor to address You on this Subject in answer to a communication from You of the 9th of that Month, which states the Steps that had then been adopted in this Case, and as it is possible You may not have that Letter with You I take the Liberty of enclosing a Copy of it. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 6th March 1824.

MY LORD,—Having been requested to transmit to the Lords Commissioners of His Majesty's Treasury a Memorial from the most respectable Wine Growers, Merchants and Inhabitants of this place, I do myself the honor to transmit it to Mr. Lushington, through Your Lordship, most anxiously soliciting at the same time Your Lordship's best Interest in Support of it, as it is a Subject on which the entire prosperity and indeed, existence, of this Colony depends. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure in the above.]

To the Right Honourable the Lords Commissioners of His Majesty's Treasury.

The Memorial and Petition of the undersigned Wine Growers, Merchants and Inhabitants of His Majesty's Settlement of the Cape of Good Hope Humbly Sheweth,

That intelligence has been received from England announcing that H.M. Government has been moved to lay additional duties on Cape Wines imported into the United Kingdom, amounting to double the rate of the existing duties, and a provision had been introduced into a Consolidation Bill, about to be brought into Parliament for levying one moiety of such additional duty in July last and the remainder in July next, that upon the representation of the Merchants engaged in the Trade of this Colony it had been withdrawn, but there was every reason to apprehend that the persons interested in the Foreign Wine Trade would seize the first favorable opportunity to urge Government either to levy an additional duty on Cape Wines, or to reduce those existing on Foreign Wines, the latter of which would materially injure and the former nearly annihilate the Export Wine Trade of this Colony.

That the agitation of this measure and the dread of its being proceeded in, has already been productive of great loss to the Wine Grower by preventing the investment of capital which would otherwise have taken place and lowering the price of the last Vintage and has excited the greatest alarm not only among the Wine Growers and Merchants, but all who are capable of reflecting upon and appreciating the resources of the Colony and the ruinous consequences which would follow any alteration in the existing rate of duties.

That by a Government Proclamation of 19th December 1811 the Cultivators and Merchants of this Colony were directed to the subject of the Wine Trade as "a consideration above all others of the highest importance to its opulence and character," and such Proclamation after authoritatively "demanding from the Settlement a serious and lively attention to their interests" promised "the most constant support and patronage on the part of Government and that no means of assistance should be left unattempted to improve the cultivation and every encouragement given to honest industry and adventure to establish the success of the Cape Commerce in this her great and native superiority." This Proclamation was followed by the appointment of a Wine Taster and an Examiner of Casks, by the repeated publication of advice and information as to the best method of culture and the management of wine, by the offer of premiums to those who planted most largely and those who produced the best wines, by the promise that the old Channels of this Trade should be reopened and new ones found and by a variety of regulations all strongly evincing the lively interest which Government felt in promoting this Trade and which were fully ratified and confirmed by the act of July 1813, admitting Cape Wines to entry at the existing rates of Duties.

That the cultivators lost no time in complying with the energetic demands of the Proclamation of 1811 but immediately commenced planting new Vineyards and the Act of 1813 led the British Merchant to embark his capital and the Colonist to redouble his exertions and the result has been an immense increase in the Plantations, Fustage, and Buildings necessary for carrying on the Trade.

That it appears from official returns that the whole produce

of the Cape and Stellenbosch districts for the year 1814 was 7,707 $\frac{3}{4}$ Leagers of Wine and 472 $\frac{1}{4}$ Leagers of Brandy and that the produce of the same districts in the present year is 19,250 Leagers of Wine and 1147 Leagers of Brandy, and that there are upwards of three millions of Vine Stocks in cultivation which have been planted at an expense of upwards of a million of Rixdollars, but have not as yet come into bearing.

That from the most accurate calculation which can be made it is found that the capital employed by the cultivators in these Districts and the Wine Merchants in Cape Town amounts to upwards of 20 millions of Rixdollars and is more than double the amount which was invested in this Branch of Commerce previous to the encouragement held out for its extension.

That in the event of any unfavorable alteration in the existing rate of duties no part of this capital could be converted without causing such a loss as would bring irretrievable ruin on all who had under the faith of pledged support from Government embarked in growing the Vine. The Vineyard which has required seven years of labor and outlay of capital would be destroyed and the land for any other purpose of Agriculture greatly depreciated in value, and as a large proportion of the Vines planted since 1811 are growing on lands held on perpetual Quit Rents payable to Government and which rents were regulated at the time of making the Grant by the value of the produce for which such lands were calculated, the possessor would be unable to pay his rent. The Surplus Stores and Fustage would become useless and it may be confidently asserted that there would be a direct and total loss of at least ten millions of Dollars by bringing back the Wine Trade to the Standard of 1811.

That the Mortgages upon the Wine Farms in the two principal districts amount to three millions one hundred and fifty-five thousand two hundred and eighty-two Rixdollars and to each mortgage there are two collateral personal securities, a circumstance which would proportionably extend the disaster attendant on the ruin of the Wine Trade.

That from the proportion wine bears to the exportable produce and from the best calculations it appears that the Trade directly and indirectly gives employment to at least

one third of the population of this Colony, and that such proportion would become surplus and be obliged to seek fresh employment under all the difficulties attending such an immense destruction of capital.

That the revenues of the Colony must follow the fate of its capital and labor ; deprived of the duties now collected on the exportable articles and of those paid on the goods imported in return with a surplus population unable to furnish themselves with the means of subsistence and the remaining population extremely impoverished, it would be impossible for the Colony to support the existing Government.

That it would be tedious if not impracticable to pursue the subject thro' all the ramifications of the interests which it affects, but the more it is investigated the more clearly it will appear that the measure under contemplation would if proceeded in bring irretrievable ruin and incalculable distress upon the Colony at large.

That the losses sustained would not however be confined to the Colony the enormous rate of exchange which has so long existed against the Colony proves that a considerable balance is due to England. By the cutting off this her chief article of export a further and rapid depreciation in the Currency would take place and in the general ruin a great part of the balance would be lost as well as the capital of the British Merchant engaged in the wine trade and the Colony would of necessity become a burthen to the Parent Country.

Memorialists leave it to the opponents of the Cape Wine Trade to shew any advantages which might result to the Empire at large from the adoption of any measures more favorable to Foreign Wines but they beg to submit that the Taxes levied by Foreign Governments on the Wines shipped by them to England are to a heavy extent and go to support such Governments, while any internal duty collected on Cape Wines is solely applied to the use of an integral part of the British Empire. That the Foreigner may and does export part of his own Wine in his own Shipping while the Cape Trade solely employs British Shipping, and that the length of the Voyage to the Cape is in the favor of the interests of navigation. That the Foreigner receives his returns partly in Specie and partly in the produce of other Countries, while

nearly the whole returns for Cape Wines consist in the Produce of manufactures of Great Britain.

That the cultivation of the Vine gives subsistence to a larger proportion of the population than any other branch of Agriculture practicable in this Colony, and if it be admitted that Agricultural population is the strength of States, the Cape as one of the Outworks of the British Empire has a powerful claim to preference on this account.

That memorialists have considered it as an admitted principle that States should depend as little as possible on Foreigners for the Articles of general consumption, and the Cape is the only part of the British Dominions where wine is produced in any quantity and where the cultivation of the Grape can be increased to any extent to which it shall be found advisable to give it encouragement.

That the opening of the Cape Trade and the dread of its extension has a natural tendency to lower the price of Foreign Wines and is therefore highly advantageous to the British Consumers and memorialists conceive that the Revenues of Great Britain cannot sustain any loss by Cape Wines being admitted at the present duties inasmuch as they have not as yet entered into competition with Foreign Wines at the Tables of the Wealthy, nor can it be expected that they will for some years overcome the prejudices of Fashion, Habits and confirmed tastes, but they have in a great measure produced a new class of Consumers, who would not have gone to the Foreign Wine Merchant, and have therefore produced an increase of Revenue.

That for some years after the establishment of the existing rate of duties, the exporters sustained excessive losses in their endeavors to bring Cape Wines into Consumption in Great Britain, and it has been proved to the British Government that these losses at one time amounted on an average to ten pounds per Pipe.

That the exporters have since encountered much difficulty in establishing the Trade on its present footing and have only latterly been able to retrieve a part of their losses, but have still to look forward to a distant period for a fair recompense for Years of exertion and expenditure.

That the prices obtained by the Wine Growers for the last

three years have not been more than adequate to pay the interest on the outlay of capital and the expenses of cultivation and that at the prices at the present moment they sustain considerable loss. Increased consumption has not kept pace with increased production, and it is evident that when the Plantations which have been made for the last five years shall become productive it will be necessary to find out new Channels to carry off the surplus produce instead of obstructing those which at present exist.

Wherefore memorialists on behalf of themselves and their families and the rest of the inhabitants of this extensive and encreasing Colony, the Settlers who are daily arriving, and all who have embarked capital in promoting its Trade and Commerce most humbly but earnestly pray that no alteration may take place in the present rate of duties on the importation of Cape and Foreign Wines into the United Kingdom. And that your Lordships will be pleased to take into your consideration the expediency of granting a similar encouragement to the introduction of Cape Wines in other parts of the British Empire.

And your memorialists as in duty bound will ever pray,

(Signed) JOHN COLLISON,
JAMES NISBETT,
GEO. THOMPSON,
and 334 others.

[Copy].

*Letter from the COMMISSIONERS OF ENQUIRY to the
REVEREND WILLIAM GEARY.*

GRAHAM'S TOWN, 8 March 1824.

SIR,—In professing our readiness to transmit to His Excellency the Governor your proposal for leaving the Colony and returning to England, we ought to have mentioned to you a condition which we consider so reasonable that we scarcely anticipate an objection on your part.

It occurred to us in the course of yesterday that if the Colonial Government would accede to the proposals that you have made for facilitating your return to England, it would only be just that you should give them a pledge of your determination to bury in oblivion all subjects of difference that have arisen here, and to abstain altogether from bringing them forward as private or public complaints in England, except in as far as it might be required of you to meet any complaints that should reach the authorities at home before your arrival, and excepting always the individual and special ground arising out of the late publication of the letter respecting you in the *Cape Town Gazette*.

The principal subjects of grievance of which you have had to complain will doubtless be noticed by us in reporting to His Majesty's Government, on the state of Ecclesiastical affairs in this Colony, but without any special or personal application. If therefore it is your object to present them to the consideration of Earl Bathurst for the purpose of effecting some amelioration of the system, or a more near approximation to the frame of our Ecclesiastical Polity in England, we can venture to assure you that this object will be attained (tho' with a little more delay) by means of our report.

We shall be glad to find that the Condition alluded to in the former part of our letter contains nothing that may tend to embarrass your determination, which under all the circumstances that have occurred we cannot help regarding as a wise and prudent one.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

[Copy.]

Letter from the REVEREND WILLIAM GEARY to
MAJOR SOMERSET.

GRAHAM'S TOWN, 8th March 1824.

SIR,—As the whole of my case must now of necessity come before His Royal Highness the Commander in Chief as well as

the British Parliament, and as the 1st part of the General Orders of the 19th February has an intimate connexion with the 2nd, inasmuch as the cause of my dismissal being there omitted to be stated, an *insinuation* is conveyed that I am dismissed for being implicated in "a tumult of a most dangerous character on the night of the 4th Instant at Graham's Town," of whose existence it is therein stated the Landdrost of Albany had apprized the Commander of the Forces, I have to request that I may be furnished with an authenticated copy of the *whole* of such General Order, with a view of vindicating my Character from such suspicion. I have &c.

(Signed) WILLIAM GEARY.

[Copy.]

Letter from MAJOR SOMERSET *to the*
REVEREND WILLIAM GEARY.

GRAHAM'S TOWN, *March 8th* 1824.

SIR,—In answer to your Communication of this morning's date, I have the honor to inform you that I have not the power to give Copies of the General Orders of the Army but by Authority from the Commander of the Forces. I have &c.

(Signed) HENRY SOMERSET.

[Copy.]

Letter from MR. WILLIAM EDWARDS *to*
LORD CHARLES SOMERSET.

CAPE TOWN, *8th March* 1824.

MY LORD,—Ever unwilling to trouble your Excellency because I am aware that your duties are already burthensome, it is painful to be obliged to intrude on your attention or by any other step incur the suspicion of doubting your justice, a suspicion I would on no terms be supposed to entertain.

Your Lordship is aware that three weeks ago I was committed to Prison by two of the Commissioners of the Court of Justice whilst defending myself against an ex-officio prosecution by the Fiscal, but it is not now my purpose to canvas either the justice, the wisdom, or the legality of this measure.

I was debarred for two or three days of my imprisonment from seeing some of the persons who visited me, and complained of it to the Commissioners of the Court who I thought felt the injustice of allowing me whilst the Fiscal's Prisoner to be prevented by his means rebutting his charge.

However I find I was mistaken, other difficulties being thrown in my way. Two women came to relate to me yesterday some unfair transactions of Mr. Blair, and were detained at the Gate and told I must speak to them thro' the bars, where a Constable sits and could hear every word. This of course I refused, and wrote to the Fiscal, so when one was gone away the other was permitted to enter.

As you will never permit such proceeding I only think it necessary in discharging my duty to draw your attention to the fact. I have &c.

(Signed) W. EDWARDS.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 9th March 1824.

MY LORD,—In Obedience to your Lordship's desire, I have the Honor to transmit to You detail'd returns from the Collector of Customs and from His Majesty's Fiscal relative to Negroes who have either been landed here and condemned as Prize or were brought hither by other circumstances and who have been apprenticed according to Law.

I regret the delay that has occurred in the forwarding of these Returns. When they were first made out it did not appear to me that they gave the full Information required by Your Lordship. The remaking them with additional columns has occupied some time and the Fiscal has pleaded an over-

whelming pressure of Business as the cause of delay in the preparing that from his Department. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[The lists fill a volume, and it seems unnecessary to copy and publish them now.—G. M. T.]

[Copy.]

*Letter from the COLLECTOR OF CUSTOMS to
LORD CHARLES SOMERSET.*

CUSTOM HOUSE, CAPE TOWN, 9th March 1824.

MY LORD,—A Memorial having been forwarded by Mr. Launcelot Cooke to the Lords Commissioners of His Majesty's Treasury and also to your Excellency containing certain charges against my Public character in one part of my duty as Collector of His Majesty's Customs, I took the earliest and most proper means, as I was advised, of repelling such base and unfounded calumny by the Prosecution of Mr. Cooke before the Commissioners of the Court of Justice. The appeals however of the adverse Party cause such a Protraction of the Suit as may leave this foul stain upon me for an indefinite period.

Under this impression I am induced to request the favor of your Excellency to be pleased to order an immediate investigation of my conduct in the Distribution of Prize Negroes, for the purpose of rescuing my character forthwith from Accusations now publicly announced through the medium of a Colonial Newspaper. I have &c.

(Signed) CHARLES BLAIR, Collector of Customs.

[Copy.]

Letter from the REVEREND WILLIAM GEARY *to*
SIR HERBERT TAYLOR.

GRAHAM'S TOWN, *March 9th 1824.*

SIR,—I should feel particularly obliged by your submitting the Enclosed Papers to His Royal Highness the Commander in Chief, and have the honor &c.

(Signed) WILLIAM GEARY, Chaplain of
Graham's Town and late
Chaplain to the Military.

[Copy.]

Warrant issued by LORD CHARLES SOMERSET.

Whereas Charles Blair, Esquire, Collector of His Majesty's Customs of this Place, has by letter of the 9th instant made complaint and given information to me of certain charges and accusations having been circulated against his Character by Mr. Launcelot Cooke, Merchant of Cape Town, in a Memorial forwarded to the Lords Commissioners of His Majesty's Treasury, a Duplicate of which was transmitted to me, as to the Discharge of his public duty in the distribution of Prize Negro Apprentices, I have decided upon causing a minute investigation to be made into the several circumstances set forth in the Memorial before alluded to of the said L. Cooke, and I do by these presents constitute and appoint

His Honor Sir J. A. Truter, Kt., Chief Justice,
His Honor George Kekewich, Esqre., Judge of the Vice
Admiralty Court,
and Colonel Mark Napier, Commandant of the Garrison
of Cape Town,

to be a Committee for the purpose of enquiring into and taking cognizance of the matter aforesaid and reporting thereon to me in a clear and distinct manner, together with their opinions relative to the same.

And I have also judged it expedient and I do hereby invest the said Committee with full powers to summon before them and to examine on oath (which they are hereby authorised to administer) all such Persons as shall appear to them to be able to give information on the different charges of said Memorial, and I do further authorise the said Committee to call for Copies of all such public papers and public Documents as may tend to elucidate the several Subjects of their Investigation.

Given under my Hand and Seal at the Cape of Good Hope this tenth day of March 1824.

(Signed) CHARLES HENRY SOMERSET.

[Copy.]

*Letter from the Deputy Colonial Secretary to the
Chief Justice.*

COLONIAL OFFICE, 10th March 1824.

SIR,—I have the honor to transmit to you a Warrant from His Excellency the Governor and Commander in Chief appointing a Committee consisting of yourself, His Honor the Judge in the Vice Admiralty Court (George Kekewich, Esquire), and the Commandant of the Garrison of Cape Town (Colonel Mark Napier), to enquire into and report upon certain charges preferred by Mr. L. Cooke against Charles Blair Esquire, Collector of Customs, contained in a Memorial addressed to the Lords Commissioners of His Majesty's Treasury, a Copy of which I have the honor to enclose.

His Excellency has apprized Mr. Cooke of the appointment of this Committee, and has requested his attendance whenever you shall require it, to enable you to proceed in the duties you are called upon to perform.

His Excellency has been pleased to appoint Mr. John Brink to act as Secretary to the Committee, and has directed the Committee Room of the Court of Justice to be prepared for your reception.

I enclose a Copy of the Letter I have addressed to Mr. Cooke, and have the honor to be &c.

(Signed) P. G. BRINK.

[Copy.]

Letter from the DEPUTY COLONIAL SECRETARY *to*
MR. LAUNCELOT COOKE.

COLONIAL OFFICE, *March 10th 1824.*

SIR,—His Excellency the Governor having been pleased to issue a Warrant under his hand and Seal, appointing a Committee to enquire into, and report upon certain charges of misconduct alleged by you in a Memorial to the Lords Commissioners of His Majesty's Treasury against Charles Blair Esquire, in the discharge of that part of his duty as Collector of Customs at this Port which relates to Prize Negro Apprentices: I am directed to inform you that the Committee so appointed consists of His Honor the Chief Justice, His Honor the Judge of the Vice Admiralty Court, and the Commandant of the Garrison of Cape Town, and to request that you will be pleased to attend the said Committee at such time as they shall require your presence in order to give the necessary information to enable them to proceed in the Duties entrusted to them. I remain &c.

(Signed) P. G. BRINK.

[Office Copy.]

Letter from R. W. HORTON, ESQRE., *to* LORD CHARLES
SOMERSET.

DOWNING STREET, LONDON, *11th March 1824.*

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's letter of the 10th of August last respecting the Reverend Mr. Sturt.

Having communicated to Messrs. Flight and Robson the explanation offered by Mr. Sturt in exculpation of his conduct from the charge which they have preferred against him, I have received from them the accompanying communication enclosing one from their Attorney who absolutely denies the truth of Mr. Sturt's statement.

Under these circumstances it would have been difficult for Lord Bathurst to offer any suggestion for bringing to a satisfactory decision the question at issue between the parties, but his Lordship having been given to understand that Messrs. Flight and Robson have commenced legal proceedings against Mr. Sturt at the Cape, it has appeared to his Lordship, if such should be the case, that there will be no necessity to enter into any further examination of this business. I have &c.

(Signed) R. W. HORTON.

[Copy.]

*Letter from the Landdrost of Albany to the Commissioners
of Enquiry.*

GRAHAM'S TOWN, 11th March 1824.

GENTLEMEN,—I have the honor to acknowledge the receipt of your letter of the 6th Instant communicating a complaint made by Richard White that he had not been allowed to proceed to Graaff Reinet in June 1822, and requesting to be furnished with any information which I may possess relative to the necessity of British Colonists providing themselves with passes to enable them to move from one District to another ; and I have the honor to state that it having been considered expedient on the first arrival of the English Settlers to take measures to prevent the separation of Individuals from their parties, which it was thought would, if permitted indiscriminately, tend to defeat the objects of His Majesty's Government in colonizing South Africa, and would also be productive of much mischief in the Colony, a Proclamation was issued on the 14th May 1820, directing that any English Settlers who might be found wandering about the Colony without the Passes with which

they are by that Proclamation required to provide themselves, should be arrested and put into prison.

This Proclamation not having been annulled, all Settlers wishing to move from one District to another have found it necessary to apply for Passes, which have been always granted, and latterly the condition of producing a permission from the Head of the Party has been waived, and no preliminary disclosure to the Landdrost of the object of a removal or visit has been required by me.

Colonial Passes have also been invariably granted to all persons applying for them during the two last years.

With regard to the case of Richard White, I do not recollect anything of the circumstance, and Mr. Onkruydt informs me he does not remember it ; I am confident however that if it be as stated by Mr. White, very good and sufficient reasons existed at the time for not granting him a Pass, and I do not doubt that he is himself aware of them. I have &c.

(Signed) HARRY RIVERS.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 13th March 1824.

MY LORD,—I have received and laid before the King your Lordship's despatches of the dates and numbers noted in the Margin ; and I am commanded to convey

No. 63—16 December.	to your Lordship His Majesty's approba-
„ 64—18 „	tion of the prompt and effectual measures
„ 65— „ „	which your Lordship has carried into
„ 66— „ „	effect for repressing the daring depreda-

tions of the Kaffers on the Frontier District of the Settlement.

It has given me much regret to learn that a blight has once more disappointed the expectations and paralysed the industry of the Settlers. But I am not unwilling to hope that the security which they now enjoy from the depredations of the Kaffers and the facilities of communication which your Lordship has wisely established between the Settlement and Cape

Town will compensate in some measure for the temporary result of a diminished harvest.

I have given the fullest consideration to the application which your Lordship has made in favor of Mrs. Evans, the Widow of a Clergyman, and of Mr. Hardinge the Deputy Landdrost of Graaff Reinet ; but I am sorry to have to acquaint your Lordship that it will not be in my power to recommend to His Majesty to sanction an increase of Mrs. Evans' pension or to grant the allowance which you have proposed to allot to Mr. Hardinge on his retirement. The pension now received by Mrs. Evans is certainly inconsiderable in amount ; but as it is not less than what she is entitled to under the Church Regulations, I cannot authorise an exception in her favor of which the benefit might equally be claimed by other Widows. With respect to Mr. Hardinge I observe in the certificate of his ill health which accompanies your Lordship's letter that he was labouring under constitutional disease before his appointment and that he has in fact been alarmingly ill from the period when he entered upon the duties of his Office. And as your Lordship has not stated the length of Mr. Hardinge's services in the Colony I cannot admit that he has any claim to a superannuation allowance upon the mere plea that his health is inadequate to the efficient discharge of his official duties.

I have &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON. 13th March 1824.

MY LORD,—I am commanded by the King to desire that your Lordship will signify to Lieutenant Colonel Bird, Secretary to your Lordship's Government, that His Majesty is pleased to dispense with his services.

In appointing an Individual for the temporary discharge of the duties of that office, your Lordship will take care to select one who shall possess the requisite qualifications for the situa-

tion ; and I shall lose no time in submitting to His Majesty the name of a Gentleman who will be appointed Lieutenant Colonel Bird's Successor. I have &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 13th March 1824.

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's Dispatch No. 50 under date of the 2nd September last in which you request my authority for including in the Schedule of fixed contingencies of the Civil Establishment of your Government, certain Items which your Lordship has stated to be in the nature of a fixed contingent Expenditure, and I beg leave to acquaint your Lordship in reply that so soon as I receive from your Lordship a detailed statement of the expences of those contingent services together with a more particular explanation of their object, I shall be ready to take His Majesty's commands upon the subject of your Lordship's application. I have &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 13th March 1824.

MY LORD,—I transmit to your Lordship herewith enclosed a copy of a communication which has been received from the Committee of Council for Trade requiring information as to the amount of Duty at present paid on French Brandy imported into the Settlement under your Lordship's Government and also whether any drawback be allowed on Brandy used in the manufacture of Wine.

Your Lordship will of course have the goodness to transmit to me without delay the information required by the Committee of Council, but I cannot help expressing to your Lordship my regret that the Schedule of Taxes and Duties payable at the Cape and which was transmitted to me by your Lordship some time since, together with other returns, does not contain any enumeration whatever of such duties, and I mention this to your Lordship in order that you may take measures for collecting the materials of such detailed information for the purpose of being embodied in the annual returns which your Lordship has been instructed to transmit to this Office.

I have &c.

(Signed) BATHURST.

[Original.]

Letter from MR. WILLIAM EDWARDS to EARL BATHURST.

CAPE TOWN, 15th March 1824.

MY LORD,—Emboldened by the knowledge that you have no greater wish than to learn every abuse in His Majesty's Officers, nor any greater pleasure than in redressing them, I will without proem or preface state my complaint to your Lordship and request that it may be laid with all humble duty before His Majesty.

Being professionally employed to draw a complaint for Mr. Cooke a Merchant here against Mr. Blair the Collector of Customs, to the Lords of the Treasury, I sent it thro' His Excellency the Governor.

Lord Charles Somerset placed it in the hands of the Fiscal, who thought fit to prosecute Mr. Cooke and myself as libellers.

The Fiscal having grossly misrecited the Memorial in his ex-officio information I (in pleading against it) warmly called the misrecital a detestable falsehood, for which Mr. Bentinck (who is at the same time a Judge of the Court of Justice and Colonial Auditor) and Mr. Truter (another Judge who was educated a Surgeon) sent me for one month to prison. It is

only justice to Mr. Bentinck to say he was very cool, as I neither heard expression or sound escape from him (except the tinkling of a bell) altho' I pleaded three full days before him.

The prison to which I was committed is under the superintendence of the Fiscal, who confined me in a place amongst Negroes and Hottentots Thieves and Convicts in Irons.

I am sure neither His Majesty or your Lordship will approve of my being so confined.

When I first entered the Prison I was not allowed to converse with my Friends even in the yard, two were instantly sent away from me, others were refused permission to see me, amongst whom was Mr. Richardson many years high in His Majesty's Ceylon Civil Service and a Lieutenant in the Royal Navy, at Sunset I was locked in a room without a light, which deprived me of about six hours per diem of the time necessary to arrange my defence, and when I was asleep I was nightly wakened by two persons very noisily entering my apartment on pretence of looking if I had escaped. I complained of this to the Deputy Fiscal before the Gaoler, but obtained no redress.

I was thrice led in custody thro' the streets like a common felon to the Court and back to Gaol.

On one of these times I complained to the Judges of the treatment I received, and fancied from the significant looks and nods of Mr. Bentinck and the enquiries of the Fiscal that a repetition would be prevented.

Yet on Sunday the 7th inst. two women who came to tell me of something essential concerning the Collector of Customs were prevented seeing me in any other manner than thro' a barred Gate, of which I complained to the Governor thro' the Assistant Colonial Secretary, who has not condescended to answer me.

After being so illegally and undeservedly imprisoned above three weeks I imagine your Lordship will think that this Assistant Secretary ought to have treated me with more courtesy.

One of the judges was deputed on the 11th inst. when my imprisonment was nearly at an end to enquire with a Secretary and Deputy Fiscal into the complaint I made on the 18th of February last in Court.

I produced Mr. Cooke, he pointed out the man that stopped him, the man said the second sheriff ordered him to do so. What the second sheriff (or Gaoler) said I have not been able to learn.

By reference to the papers marked A, B, C, D, E, F, and my letter to the Governor of the 8th instant marked G, your Lordship will find abundant proof of the necessity of advising His Majesty to order me proper redress.

I must also state to your Lordship that the Fiscal by means of his numerous Emissaries found out the woman who was so long prevented seeing me on the 7th instant, and on the 12th he required her attendance in his Office where he endeavoured to extract from her what was the nature of the information she had to give me.

This My Lord is not a solitary instance in which he took unfair advantage of me to learn what was my evidence in a similar way, and altho' I was only sentenced for one month's imprisonment he thought fit contrary to law to construe it and detain me a calendar month.

I will lay a copy of this letter before the Commissioners of Enquiry, who will no doubt enquire into its truth and report thereon.

In candour I must admit that for the last four days of my imprisonment my friends were allowed uninterruptedly to visit me. I was also permitted to have a light and not molested in my sleep altho' I remained among the same class of prisoners.

I have &c.

(Signed) W. EDWARDS.

[Copy.]

Letter from the Fiscal to the Assistant Colonial Secretary.

FISCAL'S OFFICE, 16th March 1824.

SIR,—Having in compliance with His Excellency the Governor's directions, communicated to me in your letter of the 9th Instant, repeated my Orders, which I had before given,

that Mr. W. Edwards's Visitors should be allowed a free access to him, I feel it now incumbent for the information of His Excellency to state, that the complaint of difficulties thrown in his way by the means of which he should have been allowed to be prevented rebutting my charge, appears to be unfounded, his complaints if ever he has made any having been attended to by the 1st Under Sheriff and no difficulties having ever been thrown in his way; as will more fully appear to His Excellency from the enclosed judicial record containing the evidence of Mr. Bamberger and Mr. Dittlestone. I cannot pass observing that Mr. Edwards seems to have aimed at me when calling himself a *Fiscal's Prisoner*, for it cannot be unknown to him, that he has been a Prisoner of the Court and not a Fiscal's Prisoner, and that he was entitled to immediate redress from the Court itself should the Fiscal or rather the 1st Under Sheriff, under whose management the Prison concerns are placed, have acted improperly towards him.

I have &c.

(Signed) D. DENYSSEN.

[Copy.]

*Letter from the Landdrost of Albany to the
Commissioners of Inquiry.*

GRAHAM'S TOWN, 16th March 1824.

GENTLEMEN,—In reply to your Letter of the 9th Instant relative to the restraints imposed upon John Stanley in cutting wood, which appear to have arisen from delay in the final adjustment of the Boundaries of the Land, I have the honor to inform you that I am in expectation of immediate Instructions from His Excellency the Governor for adopting measures for settling litigated questions of Boundary, and deciding on Applications for Additional Grants of Land.

With regard however to Mr. Stanley's allegation of ignorance of *his* Boundaries, I have the honor to state that in the latter part of the year 1822 I directed the Land Surveyor Mr. Knobel to point out to the Head of every Party the Boundaries of his

location, and to obtain a Certificate that they had been so shewn to him, which Mr. Knobel reported to me he had done with very few exceptions, one of whom was Mr. Stanley, who refused signing the Certificate, although his Boundaries were pointed out to him, under the idea that by so doing he would deprive himself of the right of complaining against those Boundaries. I have &c.

(Signed) HARRY RIVERS.

[Original.]

Letter from SIR RUFANE SHAW DONKIN *to*
R. WILMOT HORTON, ESQRE.

7 HAYMARKET, March 16, 1824.

SIR,—I have had the honor of receiving your letter of yesterday's date covering No. 37 of a military order directing Kaffers found over the Boundary of the Colony of the Cape of Good Hope to be shot, whether armed or no.

Of the Military order of which No. 37 is said to form a part I have no copy at hand, but, assuming that it has been correctly transcribed by the person who has called the notice of Earl Bathurst to it, and that it was issued by me, it must have been advisedly issued after I had had an interview with the Kaffer Chief Gaika, relative to the occupation of a neutral district between the Keiskamma and the Fish Rivers. The Result of our Conference was, his saying that he had no objection but rather wished this occupation, provided I did not place Colonists there in detached families, like the Boors in the Zuureveld, for, that his Kaffers would infallibly plunder such defenceless people, and that He had no power to restrain them.

On this I adopted a series of measures in concert with this Chief, one of them was the creation of a regulated Traffic near a fortified Barrack I had established on the Fish River by means of a Fair, another was to civilize and encourage the Kaffers by ensuring their personal safety as well as that of the Colonists, by forbidding Individuals on either side from passing the Boundary, and by preventing all communication except at such times and places under proper authority and safeguards.

Out of this part of the arrangement No. 37 in all probability grew, for, not only did Gaika disavow, but He declared himself unable to prevent Kaffers from crossing the Boundary on various pretexts, which they had frequently done, *unarmed* to appearance, accompanied by their Wives, who were charged with the duty of hiding their husbands' Arms in the Bushes ready to be brought forth when a blow was to be struck. Another, and chief part of the arrangement was the establishment of the fortified town of Fredericksburg on the Beka, in the centre of the Neutral Territory, to cover the Town of Bathurst and all Lower Albany, which it effectually did, and to check Kaffer Inroads by its command of several material passes and fords of Rivers.

With all these arrangements Gaika declared himself much satisfied, and, in the figurative Language of those people He said, "Then, henceforth, the waters of the Keiskamma, the Beka, the Fish River (and several others He named) will roll into the Great Flood in peace, and unstained with Blood."

In this temper and feeling, my Regulations were framed.

I then asked Gaika how the Kaffers who passed the frontier were to be dealt with. His answer was, "shoot them, for I cannot restrain them, and if you send them to me as Prisoners I dare not punish them."

The above is the History of this part of my arrangements for preserving Peace with the Kaffers and ensuring safety to the Colony, and I now beg leave to state the Results of my general System.

During my Two years administration of the Government there was no such thing as Kaffer inroad, and, in regard to No. 37, no Kaffers were shot under that order, but, my administration was no sooner at an End, than all I had done on the Frontier was overthrown, Fredericksburg was ordered to be abandoned, my whole military system was changed, my arrangements for a regulated intercourse with the Kaffers were done away with, and, since that time there has been a succession of Kaffer Inroads, Murder of the Settlers and plunder of their property.

I state this, not in censure of another, but to shew that my System under apparently severe Regulations was humane in the Result, and *was carried on without Bloodshed*, while a

contrary one has been marked all along by great calamities to the new Colonists, and lately by the slaughter of some unhappy Kaffers in a skirmish with the Cape Cavalry.

I beg leave now, most respectfully to object to this No. 37 being taken by itself, disconnected with everything before and after it, and, without advertence to the general Tenor of the whole.

No. 37 was probably the winding up of a series of conditional and cautionary provisions made in concurrence with the Kaffer Chief, and I am sure that Earl Bathurst will, in fairness to me, be pleased to take into consideration the *whole* of the Military order of which No. 37 is a part, and, in adverting to what I did on the Frontier his Lordship will find that all my Regulations had for their objects the Security of the Persons and Property of His Majesty's subjects, and to *prevent the effusion of Kaffer Blood*, and, both these objects I effectually accomplished. I have &c.

(Signed) R. S. DONKIN.

[Original.]

Letter from the FOREIGN OFFICE to R. WILMOT HORTON, ESQRE.

FOREIGN OFFICE, March 18, 1824.

SIR,—I am directed by Mr. Secretary Canning to transmit to you the copy of a Note from the Bavarian Charge d'Affaires at this Court, requesting information respecting two brothers named Exter who went to the Cape of Good Hope in 1776 and 1783, and neither of whom has been heard of since the year 1790, and I am to desire that you will lay the same before Earl Bathurst and move his Lordship to give directions that the necessary steps may be taken for obtaining the information required by the Baron de Cetto. I am &c.

(Signed) HOWARD DE WALDER.

[Original.]

*Letter from SIR RUFANE SHAWE DONKIN to ROBERT
WILMOT HORTON, ESQRE.*

7, HAYMARKET, *March 19th, 1824.*

SIR,—When I did myself the honor of addressing you on the 16th instant, in answer to yours of the 15th, I did not recollect that I had in my possession a document fully confirmatory of what I have stated as to the efficacy of my measures for stopping Caffre inroads, and the consequences of their reversal; and although I flatter myself, that when I state a thing as fact such statement does not require confirmation from any quarter, yet I must beg leave to transmit to you the enclosed “Extracts” from the memorial of the Settlers at the Cape of Good Hope, addressed to Earl Bathurst on the 10th March 1823, with my request that they may be appended to my answer of the 16th instant. I have &c.

(Signed) R. S. DONKIN.

[Copy.]

*Statement of CAPTAIN AITCHESON to the COMMISSIONERS OF
ENQUIRY.*

19th March 1824.

Captain Aitcheson states: I first came to serve in the District in March, 1819,—on the 23rd April of that year, the Caffres attacked Graham’s Town. It was a complete surprise. There had been a patrol of a party of cavalry Two Days before,

In 1819 Caffre Drift, Hermanus Kraal, Korsten’s, De Bruyns Drift, Junction Drift, were all occupied by Infantry, but they did not patrol the Bush until reports were made of Caffres being seen. The posts were not below 80 men each; beside these larger Posts, there were smaller ones consisting of a Corporal and Six men to keep up communications. A little before this period Two Posts in the rear line, under the

command of officers, were attacked and compelled to retire and an Officer killed.

Colonel Brereton had established this System and it was followed by Colonel Willshire. On 29th July 1819 the expedition into Caffre Land took place, and we remained three months, the most of the small posts were therefore withdrawn to furnish Troops for the Expedition. A great many Cattle were taken, but few Caffres were killed. A great alteration of the System of Defence was made after this Period, and the small posts were all concentrated. There remained only after that a strong Post at Caffre Drift, a considerable Force (7 or 800 men) at the place where is now Fort Willshire, and where they were employed in Building that work. Lord C. Somerset visited the Frontier about the 20th Nov. 1819 and made arrangements with Gaika for the cession of the Country between the Fish River and the Keiskamma. An indulgence was given to the English Forces to cut wood at the Chumie for the purpose of building Fort Willshire.

During the time the Soldiers remained at the Chumie a very beneficial Intercourse took place between them and the Inhabitants. The interchange of the produce of their Land for Buttons and such like trifles &c., &c. The Officers all observed a very great improvement in the Caffres, who conducted themselves extremely well. The market was always attended by a Guard.

Sir R. Donkin made no other distribution of the Force than sending a company of the 72nd Regt. to Bathurst. I don't think it was his Intention to make it a Military Station. Graham's Town has been generally considered the most eligible Situation for that purpose.

Colonel Willshire had established a very good system of patrolling the Bush, and kept up constant communication between the different parties.

He also retaliated with promptitude upon the Caffres, whenever they were detected in plunder. He traced them when he was able to a Kraal and punished the Inhabitants for the misdeeds of the Individual that belonged to it. This System had a very beneficial effect. The Country never was so quiet as at that time, until Major Somerset's attack.

In Major Jones and Col. Scott's time the System was much

relaxed and the Caffres were treated with great lenity. The Patroles were less frequent. Colonel Scott's System was one of Negotiation and Conciliation, and by degrees the Caffres lost all apprehension of the English Force.

The European Infantry were not found to support the fatigues of patrolling in the Bush as well as the Cape Corps, a portion of these always accompanied them to assist as Guides and in tracing the spoors of Cattle and Caffres.

It would tend much to give efficiency to the Force on the Frontier, if a certain number of effective Horse were allowed to each Company of Infantry, to enable them on occasions to convey Intelligence and make pursuit, and then when required to leave their Horses and penetrate into the Bush, which is inaccessible to Horses.

I am not aware that Lord Charles Somerset made any other changes in the Military Defence than authorizing the construction of Fort Beaufort and the Barracks in Graham's Town and the establishment of a small Post called the Clay Pits Post which has since been withdrawn.

(Signed) R. S. AITCHESON,
Commanding Cape Corps Infantry.

[Copy.]

Statement of LIEUTENANT ROGERS, Cape Cavalry, *to the*
COMMISSIONERS OF ENQUIRY.

19th March 1824.

Lieutenant Rogers states : I accompanied a party of Troops partly composed of Cavalry and mounted Infantry in the Month of May 1822, under the Orders of Capt. Stuart to surprize and seize upon the person of Gaika in the night, and bring him back with us to Fort Willshire.

We had about 100 mounted men, and from Fort Willshire some Infantry were sent with a view to support us if we should retire.

Some depredations that had been committed upon the Cattle of the people composing the Institution at the Chumie were

the cause of this Expedition, and as far as I could understand, we were to seize the person of Gaika, until full and ample restitution had been made of the whole number of cattle that had been lost. We proceeded from Fort Willshire in the night time and arrived at Gaika's Kraal about an Hour before Daylight.

The ford of the River that led to the Kraal was narrow, and only practicable in one straight line, therefore with a view to avoid Detention and noise in collecting all together on the opposite Bank the few Troops that first arrived dashed forwards towards the Huts. The moment we began to gallop, the road being very stony, the noise alarmed the Dogs, and our progress was further impeded by the low Branches of the Trees, which it was found difficult to penetrate. Notwithstanding this, we got to the first Hut when the Caffres were opening their Doors, one of which I stopped with my knee. This I had understood was Gaika's Hut, but I found very soon afterwards from the Two Guides that we had got to the wrong one, and that Gaika was more in advance; we immediately moved forwards, but when we came up to the Hut, we found that the Door was open, and that Gaika was gone. This was very unfortunate, as we had succeeded remarkably well till then, in approaching the Kraal without being discovered. At that time the Moon that had befriended us began to be cloudy, and we were unable to pursue Gaika.

The Caffres who were in the Kraal did not attack us, and were much alarmed. One at last was prevailed upon to speak to the Interpreter. We asked him for Gaika, and wished him to try and persuade him to come to a conference, as Captain Stuart thought that as his attempt had failed, it would be better to explain to him the reasons that had led to it. We did not see Gaika, the Person who talked to us saying that he was absent.

In the Hut in which we expected to find him, we found his children and Two Women. We remained at the Kraal for about an Hour and then retired upon the Chumie Institution, numbers of the Caffres following us but not attacking us.

Two of them came up and asked to be allowed to speak to the Commanding Officer, but apparently for the purpose of ascertaining our force.

We waited part of the Day at the Chumie, and in that time a part of the Cattle were sent in and shortly after Intelligence was received of the restitution of nearly all the Cattle.

We then returned to Fort Willshire, and Gaika fled to a very inaccessible Country in the rear, where he has remained ever since.

(Signed) W. H. ROGERS, Lt. Cape Cavalry.

[Original.]

Memorial of MR. CHARLES BREEZE.

To Robert Wilmot, Esquire, &c., &c., &c.

The Memorial of Charles Breeze most humbly Sheweth

That your Memorialist impressed with gratitude for your former kindness and for which he cannot sufficiently express his obligations, begs leave to lay before you a brief statement of his situation, under a deep impression that your goodness, of which he has so repeatedly experienced will incline you on the present occasion to relieve him from some of those difficulties under which he is at present labouring.

That your Memorialist was located at the distance of Eleven Miles from Graham's Town and about Two from the Estate of Major Pigot, and in addition to the inconveniences arising from the disposition of the party to which he belongs he (Memorialist) has suffered very seriously in the loss of his Cattle by the depredations of those sable enemies, the Caffres, and although you may have probably heard (for we ourselves are astonished at the excessive licentiousness of the Press) that "the settlers are fully remunerated for the losses they have sustained," he assures you in the most solemn and deliberate manner that such is unfortunately *not the case*, and himself and a multitude of British settlers *are still suffering* under the sad and lamentable effects thereof, in the non-increase of their cattle stock which is a great loss and the want of Milk which in consequence has abounded among them, and Memorialist felt it most severely, when in addition to this *unredressed affliction*, the frowns of divine providence swept away the

prospects of successive Harvests and himself and his wife were left in their solitary habitation during the whole of Three Months with nothing save a small portion of Rice.

That your Memorialist is perfectly satisfied with the climate of this Colony, together with its general appearance and is ready to pronounce the highest eulogium on the salutary effects of its atmosphere to European constitutions, but One Hundred Acres of Land here is not sufficient for a grazing Farm, if a Family is to be supported thereby, and therefore he humbly prays that you will be pleased in your accustomed goodness and clemency to interpose in his behalf for an additional Grant and place him in a Farm equal in extent to his Dutch Neighbour's, as near to Graham's Town or the Mouth of the Kowie as possible, or an erf in Graham's Town, and your memorialist as in duty bound will ever pray.

(Signed) CHAS. BREEZE.

Graham's Town, District of Albany,
South Africa, March 19th, 1824.

P.S. If time and a multiplicity of engagements should have erased the humble name of Memorialist from your memory he begs leave to state that he has voted for you twice, but that if you will please to enquire of William Kimmersley Esquire, he flatters himself to be soon restored to your recollection.

[Original.]

Letter from the FISCAL DENYSSSEN to LORD CHARLES SOMERSET.

FISCAL'S OFFICE, 23rd March 1824.

MY LORD,—In dutiful compliance with your Excellency's directions I have the honor herewith to transmit to your Excellency a return of Negroes assigned to individuals under Indenture by the Fiscal, together with another return specifying the mode of disposal of the Negroes who served out their time at the expiration of their term as far as they belonged to

Cape Town, those in the Country Districts having been placed under the immediate protection of the Landdrosts. I have thought it requisite to classify the Negroes thus indentured as follows :

1st Class. The Negroes indentured to the late Mr. Alexander Tennant by an Act dated the 20th April 1808.

2nd Class. The Negroes smuggled in this Colony as slaves, in or about the beginning of the year 1808, and declared forfeited on behalf of Government by Sentence of Commissioners from the Worshipful Court of Justice.

3rd Class. The Negroes saved from the wreck of the Portuguese Brig *Packet Real*.

With regard to the first class, I beg leave to observe, that they have been imported on the 18th December 1807 in the Portuguese Ship *Constantia*, of which Vincente Guedes de Souza was Master, and that the late Mr. Alexander Tennant was on the 8th March permitted by the Earl Caledon, then Governor, to land these Negroes from the Robben Island (where at that time they were detained in the state of Slavery) with the following restrictions however, that they were to be manumitted by Mr. Alexander Tennant, and afterwards to be indentured to him as apprentices for Seven years by His Majesty's Fiscal.

In consequence whereof they have been on the 16th April 1808 manumitted, and subsequently on the 20th April 1808 indentured by the late W. S. van Ryneveld Esqre., then Fiscal, to the late Mr. Alexander Tennant as will appear to your Excellency from the annexed Copy. At the time of importation of these Negroes the cargo of the Ship *Constantia* was reported to consist of 260 Slaves, whereof 117 have been allowed to be landed as slaves, there remained a number of 143 afterwards to be accounted for.

Not less than 44 out of this number were said to have died previous to the manumission, which took place on the 16th April 1808, so that only 99 could be manumitted by the late Mr. Alexander Tennant, and this number also was on the 20th April 1808 indentured to him for Seven years, but as the late W. S. van Ryneveld Esqre. had thought it adviseable to take an inaccurate description of these Negroes, and to cause them to be marked, they were mustered and on his mustering them 14

of their number had again disappeared, who were accounted for in the same manner as the 44 others.

Those mustered by the late W. S. van Ryneveld Esqre. were marked on the right arm near the shoulder with two crosses and moreover their descriptions were taken and a Schedule thereof was formed, which was annexed to their indenture.

The late Mr. Alexander Tennant also caused their names and descriptions together with the number of the Fiscal's Schedule to be inserted in a book, in which he was afterwards to make memorandums respecting the mode he had disposed of each of them. This description book has been annexed by me to the proceedings in a certain case hereafter to be mentioned, and is supposed to be at present in the Secretary's Office of the Worshipful Court of Justice.

Notwithstanding this precaution little care was taken by the late Mr. Alexander Tennant to prevent unlawful dealings with his said Apprentices; which I discovered after his decease, when on the 9th June 1814 a letter was addressed to me by the Deputy Colonial Secretary, whereby I was informed, that Mr. Tennant having died, a short time afterwards application had been made by his widow to have these Apprentices bound to her for a further term of Seven years, and wherein I was further directed to summon all these apprentices before me, and to enquire into the state and condition of each of them, the progress each had made in the employment by which he or she were to earn a livelihood and whether any steps had been taken towards instructing them in the first principles of the Christian religion, and after having so done to report thereon for the information of your Excellency.

To comply with the directions given me in this letter I called on the Executors of the will of the late Mr. Alexander Tennant, who at first were not able to account for more than 28 out of the 85 mustered by the late W. S. van Ryneveld Esquire, and at the same time produced to me Six and afterwards one more Negro Apprentices not belonging to their number, and whom I therefore at first supposed to have been assigned to the service of the late Mr. Tennant by the Collector of His Majesty's Customs.

As however on enquiry made by me in the Collector's Office I was informed, that the Apprentices indentured by the Collector

had been all accounted for, I was induced to think that they belonged to the 14 missing out of the 99 Apprentices indentured by the Fiscal at the time when they were mustered, and under this impression I have considered them in all respects to stand on an equal footing with the 85 mustered. After long and tedious inquiries twenty-four more belonging to the 85 mustered were partly produced to me by the Executors of the will of the late Mr. Alexander Tennant, partly discovered by myself. Eleven others were reported to have died during their Apprenticeship, although the time of the decease of two of them could not be ascertained, and thus the whole number of Apprentices belonging to the 85 mustered who were accounted for or discovered by myself, consisted of not more than 63, leaving a deficiency of 22 Apprentices not at all accounted for.

These 52 Apprentices produced in my Office were the numbers 2, 4, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 22, 23, 24, 26, 30, 31, 32, 34, 35, 38, 40, 41, 42, 43, 45, 46, 47, 48, 49, 51, 52, 54, 55, 56, 59, 60, 62, 63, 64, 65, 66, 69, 70, 72, 73, 76, 80, 81, 82, and 83, and those reported to have died the numbers 1, 5, 17, 19, 21, 25, 27, 33, 50, 79, and 84, so that the numbers which remained unaccounted for were 3, 10, 18, 20, 28, 29, 36, 37, 39, 44, 53, 57, 58, 61, 67, 68, 71, 74, 75, 77, 78, and 85.

As in the course of my enquiries it was found that the late Mr. Tennant had been accustomed to hire his said Apprentices out to several inhabitants, I was much indebted to the informations of the individuals to whom the same had been hired out for the discoveries I made. Among other circumstances it was found that Mr. Tennant had thought proper to dispose of 18 out of the 85 Apprentices mustered by the Fiscal by assigning them over on the same terms, on which he held them, to the service of the late Master of the Ship *Constantia*, Vincente Guedes de Souza, who at that time happened to reside in this Colony, but afterwards departed for Mozambique leaving his affairs under the administration of Mr. Reinier Beck. According to his memorandum book their numbers were as follows, 3, 10, 18, 20, 28, 29, 36, 37, 39, 44, 58, 61, 67, 68, 71, 75, 77, and 85.

None of these Negroes the Executors of his will were able to account for ; and to my very great surprize, I soon discovered that some of them had been disposed of and sold as slaves partly by Vincente Guedes de Souza at the time of his tem-

porary residence in this Colony, and partly by Mr. R. Beck his agent, under whose care he left the remainder of these Negroes at his departure from the Colony, with special instructions to dispose of them as slaves, and who in consequence acted on his said instructions, not having been aware of the circumstance of Mr. Guedes having got possession of these Negroes as free Apprentices.

My inquiries on the state of these Apprentices thus wantonly reduced to slavery in defiance of the precautions taken by the late Fiscal W. S. van Ryneveld Esquire to prevent such crimes, were continuing till in June 1815 when I was enabled to commence a lawsuit against the Master of Nine of those already mentioned viz. of the numbers 3, 10, 18, 20, 29, 39, 44, 71, and 77, as also of the number 57 who although he was not mentioned by the late Mr. Tennant in his memorandum book to have been assigned over to Mr. Guedes, still by the most indubitable marks was proved to belong to their number. To these 10 I added four others, whose cases however were much more doubtful, because their descriptions did not answer any of the descriptions of those missing out of the 85 mustered by the Fiscal.

The result of my proceedings in their cases was, that Seven out of the 10 first mentioned Negroes viz. the numbers 3, 18, 20, 39, 44, 71 and 77 were by Sentence of the Worshipful Court of Justice passed the 20 September 1816 declared to belong to the Apprentices indentured to the late Mr. Alexander Tennant, whilst 3 of them viz. the numbers 10, 29, and 57 together with the other four were not declared to belong to their number and thus remained in the state of Slavery.

As however I did not feel justified to acquiesce in the Court's decision respecting those three identified by their descriptions in the schedule and memorandum book of Mr. Tennant, I on their behalf appealed from the same to the Right Honourable Court of Appeal in Civil cases, where on the 18th November 1817 I obtained a decree reversing the Worshipful Court of Justice's Sentence of the 20 September 1816 passed in their case, and pronouncing that the three above named Negroes are free persons.

Since that time no further discoveries were made, so that the Negroes still missing out of the 85 mustered by the late

W. S. van Ryneveld Esquire are 12, viz. the numbers 28, 36, 37, 53, 58, 61, 67, 68, 74, 75, 78 and 85, all of them with exception of the numbers 53, 74 and 78, belonging to the Apprentices assigned to the Service of Mr. Guedes.

The Apprentices who antecedent to the expiration of the term of their apprenticeship were discovered or accounted for partly were left under the care of the Masters, to whom they were let by the late Mr. Tennant, but as some of them had been allowed to remain in the Service of Mahomedan Freeblacks, these were taken by me into my charge, and remained in the service of Christian inhabitants, until the expiration of the term of their indenture, when I thought it requisite by a letter on the 28 April 1815 addressed by me to the Colonial Secretary to suggest, that they might be reapprenticed for 7 years more under such conditions as in a subsequent letter of the 28 April 1815 I took the liberty to propose. Your Excellency was pleased to accede to my proposals under certain modifications, which I was made acquainted with by a letter from the Deputy Colonial Secretary of the 10 May 1815, in consequence whereof they have been reapprenticed by me for a further term of Seven years from the date of the expiration of their first indenture, under the conditions contained in the indentures and the regulations prescribed, to their Masters, Copies of which I have the honor to annex.

Out of the ten apprentices whom afterwards I rescued from the state of Slavery Six apprentices were left by me at their own request under the care of the Masters in whose Service they had remained on the same conditions as those reapprenticed, two others who declined to remain in the Service of their former Masters were assigned to the Service of the Orphan house and two others who equally declined to remain in the Service of their former Masters were assigned to the Service of individuals.

During the last 7 years of their apprenticeship eight of the Apprentices belonging to the 85 mustered have died viz. the numbers 3, 13, 22, 24, 35, 38, 47, 48, as also the numbers 89 and 90 reported on my list.

The monies which agreeably to the 12 clause of the regulations prescribed to the Masters of the said Apprentices were paid to Mr. F. W. de Wet one of the Clerks in my department,

and were by him deposited in the Lombard bank have at the expiration of the time of their last indentures been paid to the Directors of the Orphan Chamber, to whom it now belongs to cause the arrears to be collected and to place the monies thus collected and still to be collected to the best advantage.

This fund I am confident will be found sufficiently ample to supply the wants of those among the late Mr. Alexander Tennant's apprentices who through old age or sickness may become unable to maintain themselves, for none but the Apprentices by whose Services the monies have been earned can have any claim thereto.

Thus far I have stated the principal details relating to these Apprentices, who as the time of their Apprenticeship expired on the 20 April 1822, since that time have been allowed to engage themselves upon the most advantageous terms they can with their former or with any other Masters, as will appear to your Excellency from my additional return.

The second class of Apprentices indentured by the late Fiscal W. S. van Ryneveld Esqre. to Inhabitants comprizes all those who through the investigations of the late Fiscal van Ryneveld aided by the subsequent proceedings of a Committee appointed by a Proclamation, which on the 29th April 1808 was issued by the Earl of Caledon, then Governor of the Colony, were found to have been smuggled in this Colony as slaves in or about the beginning of the year 1808. It is not possible for me to state all the particulars relating to this class of Apprentices, for on my entering into my public Situation I had no information whatever respecting their existence.

Some time afterwards however I was made acquainted therewith by the Executors of the will of the late W. S. van Ryneveld Esquire, who caused the indentures of these Apprentices to be delivered into my Office and thereby afforded me an opportunity to enquire into their state, and the origin of their Apprenticeship; I will therefore take the liberty to communicate to your Excellency the result of my inquiries, and I venture to hope, that whatever inaccuracy may be found to have crept therein will be attributed to the difficulties under which I was labouring.

After the arrival of the Portuguese Brig *Rosalia*, which on

the 1st of March 1808 was sent in by His Majesty's Ship *Otter* with a cargo of 400 Mosambicq Slaves information was received by the Fiscal, that some slaves had been clandestinely landed from the same, and that the Master of the ship was attempting contrary to the then existing laws, to export Spanish dollars the profits of his unlawful dealings in this Colony, which occasioned the Fiscal to institute an action against the Master of the ship for the confiscation of the ship and also of the slaves illegally imported and landed in this Colony.

The two Commissioners of the Court, before whom this action was carried, declared by their Sentence passed on the 9th May 1808 that the ship as well as the illegally imported slaves were forfeited to Government.

Although the number of slaves thus illegally imported and landed from the Ship *Rosalia* seems at the time of the said sentence not to have been justly ascertained, they afterwards in consequence of the proceedings of the Committee already mentioned were found to be 46 in number.

On the 9th August 1808 the report of the said Committee, wherein Government was made acquainted with all its proceedings was sent to the Colonial Secretary, subsequent to which by letter of the 18th August 1808 the Fiscal was directed through the medium of the deputy Colonial Secretary to take the necessary measures for bringing into Custody the whole number of slaves which were reported to have been smuggled, and to proceed against the holders thereof, so that the slaves in question might be declared forfeited to the disposal of Government.

In consequence of this injunction the slaves smuggled were placed in the Government slave lodge, and an action was instituted before two Commissioners from the Worshipful Court of Justice by the Fiscal against the masters holding in their unlawful possession those not comprized in the condemnation of the 9th May 1808, who then were 64 in number, in which action like in the action instituted on the 9th May 1808 against the Master of the Brig *Rosalia* the right of Government to the forfeiture of these slaves was founded, not on any of the then existing Acts of parliament for the abolition of the slave trade, but on the Laws of this Colony prohibiting the importation of slaves, without the special permission of

the Governor for the time being, on pain of forfeiture of the slave illegally imported and landed in this Colony.

A similar action was instituted on the 27 of September 1808 for the forfeiture of 2 Negroes who afterwards had been discovered to belong to those smuggled in this Colony, and they were in consequence also declared forfeited to Government. Although the whole number of the Negroes thus declared forfeited to Government amounted to 112, I have received from the Executors of the will of the late W. S. van Ryneveld Esqre. the indentures of 104 Negroes only, who it appeared to me from the indentures were apprenticed to several Inhabitants for the term of 14 years, by virtue of an order from Government, the date of which however has been left out in all the indentures.

I take the liberty herewith to annex the Copy of one of these indentures as also a letter from the Deputy Colonial Secretary to the Fiscal bearing date the 5th September 1808 which I conjecture must be the paper alluded to in the indenture.

The eight forfeited Negroes who do not appear to have been indentured to individuals, I suppose to have died or otherwise been disposed of under the Sanction of Government, which however I was not able to gain any information of.

As in the indentures mention has been made of an act of Parliament without date, I am induced to suppose that the Act of the 25 March 1807 for the abolition of the slave trade must have therein been alluded to, notwithstanding which I am inclined to think (be this observed without the least intention to derogate to the high esteem I owe to the memory of my late predecessor) that as the forfeiture of the Negroes was founded on the Colonial Laws, not on the act of Parliament, and as the Order of His Majesty in Council whereby the respective Collectors of His Majesty's Customs have been appointed to apprentice the Negroes forfeited by virtue of said Act of Parliament did not communicate the same right to the Fiscal, this allegation of the Act of Parliament has been inaccurate, and leading to confusion; and that the Fiscal has been justly and lawfully appointed by the Governor of the Colony to apprentice the Negroes thus forfeited to Government, because they were not condemned by virtue of the Act but by

virtue of the Colonial Laws, which at that time were considered not to have been superseded by the Act of Parliament, and thus their cases were not provided for by either the Act of Parliament or the thereon founded order of His Majesty in Council.

From the month September 1822 until the end of that year the terms of Apprenticeship of these Negroes, who were all indentured for 14 years, commencing with the respective dates of the indentures, have expired. I therefore on the 22nd October 1822 obtained your Excellency's directions to dispose of them according to the tenor of a letter addressed to me by the Colonial Secretary on the 17th April 1822 relative to the late Mr. Tennant's Negroes, which has been done accordingly.

My third class of Negro apprentices are those saved from the wreck of the Portuguese Brig *Packet Real*, who in compliance with your Excellency's directions communicated to me by the Colonial Secretary by letter of the 16th June 1819 were apprenticed by me to the masters designated in a schedule annexed to the said letter.

Having touched upon various of the most material points relating to the history of those among the Negro apprentices, who have been indentured by His Majesty's Fiscal from the 16 April 1808 (antecedent to which period never any Negro Apprentices have to my knowledge been indentured neither by the Fiscal nor by the Collector of His Majesty's Customs to individuals in this Colony) it only would remain for me to reply to the important question whether they have made any progress in the knowledge of the principal points of Christian Religion.

My answer to this question cannot be such as I wished to be enabled to give for from the examinations which from time to time I have taken, aided by my own experience, it has appeared to me, that those among the Negro apprentices, who have imbibed the religious tenets of the Nations to which they formerly belonged, are not easily prevailed upon to change their religion, and that many of them, advanced to a certain age, wherein the human mind is hardly capable to be impressed with the ideas of a religion altogether strange to their understanding, are deaf for all instructions, whilst the young persons and Children, who cannot but have a frequent intercourse with

Mahomedan slaves are soon reduced by the example of their friends and Comrades, by the allurements of the external rites attending the Mahomedan religion, and by the artifices of the so called Mahomedan Priest, to give a marked preference to that religion.

I herewith conclude my report in the humble expectation that thereby some light will be thrown on the state and condition of the Negro apprentices, especially those indentured by the Fiscal in this Colony, and I will be very happy to add thereto any further elucidation which when the same are wanted it may be in my power to give. I have &c.

(Signed) D. DENYSSEN, Fiscal.

[Enclosure in the above.]

Regulations to which the Masters of Apprentices under the disposal of His Majesty's Fiscal shall in future be bound.

1. Every Apprentice shall have a number assigned to him by His Majesty's Fiscal, which number, together with the name of the Apprentice shall be inserted in the Indenture, and registered in the Fiscal's Office.

2. In order to prevent the uncertainty to which the state of the Apprentices may otherwise be subject, it shall be prohibited to the Masters to alter the names of the Apprentices inserted in the Indenture.

3. The Masters shall provide their Apprentices, during the time of their Apprenticeship, and the Children of their female Apprentices, during the time of the Apprenticeship of the Mother, with the necessaries of life, viz. lodging, clothing, victualling, and every other necessary; and in addition to this, every Apprentice, either male or female, shall be entitled to receive weekly, from his or her master, the sum of two Skillings Colonial currency, for their own use and benefit.

4. The clothing of the said Apprentices shall be given twice a year, at the beginning of the months of May and November, according to a muster to be exhibited in the Fiscal's Office; winter clothing to be of kersey or second cloth, summer clothing of duck, or some such article.

5. The Masters shall instruct, or cause to be instructed, their said Apprentices, during the time of their Apprenticeship, in the occupations of Husbandry or as House Servants, or other useful employments, to be specified in the Indenture, according to the usage of this Colony; and they shall their said Apprentices carefully instruct, or cause to be instructed, in the principles of the Christian Religion, and shall have them baptized when sufficiently instructed, and shall permit and encourage them to attend Public Worship.

6. The Masters shall not let or cede their Apprentices to any other Person whatsoever, provided upon special permission from His Majesty's Fiscal, and under such restrictions as His Majesty's Fiscal shall feel incumbent to prescribe.

7. The Masters shall not take their Apprentices, or cause them to be taken, out of this Colony, provided upon special permission from His Excellency the Governor; and in order the better to ensure their compliance with this Regulation, the Masters shall be bound to give sufficient and approved security for the sum of Three Thousand Rixdollars, to be forfeited by them, in case they may appear to have acted contrary to this Regulation, over and above such other penalties and forfeitures as they may incur, in case they appear to have transgressed the existing Laws respecting the abolition of the Slave Trade.

8. In case of the birth of Children, the Masters of the female Apprentices to whom such Children belong, shall take certificates from the Midwives and other Persons who have assisted their female Apprentices at the birth of the said Children, proving that the said Children have been born of their said female Apprentices, which certificates shall be lodged and registered in the Fiscal's Office, within 48 hours after the birth of the said Children.

9. The Apprentices shall be produced in the Fiscal's Office annually, on such days, as will be advertized by His Majesty's Fiscal in the Public *Gazette* for the information of their respective Masters, in order to be examined respecting the progress they have made in the principles of the Christian Religion, and the occupations they have been instructed in, as well as respecting the treatment they receive from their Masters.

10. In case it may appear to His Majesty's Fiscal, at the examination of the Apprentices and the Children of the female

Apprentices, that their Masters have neglected to perform the covenants contained in their Indentures, or any of the said covenants, the Masters shall forfeit all their right to the services of the said Apprentices, besides such other penalties as the Masters shall incur according to the existing Laws of this Colony; and His Majesty's Fiscal shall take such Apprentices immediately out of the service of their Masters, and re-apprentice them to other Masters, for the remainder of the time for which they have been apprenticed.

11. The same forfeiture of the right of the Masters to the services of their Apprentices and immediate re-apprenticing of the Apprentices to other Masters, shall take place, in case the Masters do neglect to produce their Apprentices, and the Children of their female Apprentices, in the Fiscal's Office, for examination, at the time prescribed in the Advertisement.

12. The Masters of Apprentices, whose services do admit of any other compensation than has been described in the foregoing Articles, shall pay at the Fiscal's Office, in the hands of such Person as shall be appointed thereto, *Six* Rixdollars for a male Apprentice, and *Two* Rixdollars for a female Apprentice, monthly, as a compensation for the services of the said Apprentices; which sums will be collected into a fund, to serve for the maintenance and relief of new-born Children of the female Apprentices, and also of those among the Apprentices, as during the time of their Apprenticeship, or after the expiration of the same, may become unable to perform any services, or to provide for their own subsistence.

13. The above pecuniary compensations shall be paid every three months, at the expiration of the months March, June, September, and December; and in case of any default in the payment of the same, within one month after the expiration of said terms, the Master who shall have failed to pay his due, shall be subject to the forfeiture of his right to the services of his Apprentice or Apprentices, and to the re-apprenticing them to other Masters for the remainder of the time for which they have been apprenticed, as mentioned in Art. 9 and 10.

(Signed) D. DENYSSEN, Fiscal.

Fiscal's Office, 11th May, 1815.

Other Enclosures are lists of names, marks, &c. of Apprentices, with particulars as to the indenturing of each one, which it can serve no useful purpose to print here.—G. M. T.

[Copy.]

*Letter from the Landdrost of Albany to the Commissioners
of Enquiry.*

GRAHAM'S TOWN, 23rd March 1824.

GENTLEMEN,—In reply to your Letter of the 20th Inst. enclosing an Extract from a statement made to you by Mr. D. P. Francis, I have the Honor, agreeably to your request, to transmit a copy of the Report made by me in December 1822 on Mr. Francis's Memorial, and to state that I am not in possession of any further information relative to the nature of the business which had called him to Cape Town, than that having called upon Mr. Francis in April 1822 to settle a Sentence which had been transmitted to me as Agent to the Sequestrator, he refused to comply with that requisition on the plea of not having been furnished with a Translation of the Sentence, and stated he was about to proceed to Cape Town, where he would arrange the business with the Sequestrator. I had occasion in September following, in consequence of a further Communication from the Sequestrator, to ascertain the fact of Mr. Francis having quitted and removed all his property from his Location, which the enclosed Copy of my Letter to the Sequestrator dated 1st October 1822 will shew. I have &c.

(Signed) HARRY RIVERS.

[Original.]

*Letter from MR. WILLIAM EDWARDS to
ROBERT WILMOT, ESQRE.*

CAPE TOWN, 23rd March 1824.

SIR,—Having occasion to send some papers on Parliamentary business to England I addressed it by the Post, but the post-master has returned me the letters refusing to forward them unless I pay 5 R. Dollars on each.

He says Lord Charles Somerset ordered him to do so. I therefore trust you will have the kindness to let them be delivered. I have &c.

(Signed) WILLIAM EDWARDS.

[Copy.]

Memorial of MR. JAMES THOMAS ERITH.

To the Right Worshipful Sir John Truter, LL.D., Chief Justice of His Majesty's Colony of the Cape of Good Hope, &c., &c., &c.

May it please Your Worship.

The Memorial of James Thomas Erith, humbly sheweth

That Your Worship's Memorialist has waited with a considerable degree of patience, and at great expense, for the arrival of His Majesty's Commissioners of Enquiry at the Frontier, from a hope that his long pending and unfortunate case would have been finally decided by them, but finding from undoubted authority that the powers with which they are invested do not extend to the immediate reparation of injuries received from the local Magistrate, Memorialist is compelled to pray as his last effort to obtain justice in the Colony, previous to his embarkation for England, that you will be pleased to permit him to prosecute Captain Trappes and Harry Rivers, Esq., in forma Pauperis, in His Majesty's

Court of Justice in Cape Town, on the serious Charges of Injustice and oppression in the discharge of the duties of their high and dignified office, and your Memorialist is in duty bound to pray.

The Affidavit.

James Thomas Erith Maketh Oath and saith that he (this Deponent) from a succession of very serious misfortunes and losses, sustained in this Country from time to time during the period of four years, is become unable in consequence thereof to prosecute certain individuals mentioned in the annexed Memorial addressed to the Right Worshipful Sir John Truter, LL.D., His Majesty's Chief Justice of this Colony, at his own expense.

Sworn before me at Graham's Town this 23rd day of March 1824.

(Signed) A. B. DIETS, Heemraad.

[Copy.]

*Letter from the Commissioners of Inquiry to the
Landdrost of Albany.*

GRAHAM'S TOWN, 25th March 1824.

SIR,—Mr. William Wait having represented to us the serious inconvenience and losses he has sustained in consequence of the delays and uncertainty in which he has been involved regarding the title of his location and to a certain tract of land for which he memorialled the Governor two years ago, we have the honor to submit to you the following particulars for your consideration and reply.

Mr. Wait has stated to us that when you visited his location in 1822 he pointed out to you the land for which he had memorialled, but that you did not then proceed to inspect it. A few months afterwards you informed him that you had received a notification from the Governor that the grant would be made, provided you saw no objection, that you saw none,

and that he might begin to plough, sow, and to use the land as his own. He in consequence proceeded to make a road to the land from his location and entered into engagements under penalties with three men to reside on, and to cultivate it. Feeling still uncertain with regard to the possession, he made repeated applications to you for the land to be measured, but you always put him off, and about two months ago when he intimated to you his wish to build on the land you informed him that he had better suspend his further operations and not begin building.

Mr. Wait has further stated to us that you came to his location last year, about the month of April, and having remained about a quarter of an hour, had no opportunity of observing the extent of his improvements, or of ascertaining that he had broken up all the land capable of being ploughed and had made and trenched a vineyard and a garden that were not in sight from the house.

Mr. Wait has entered into further explanations respecting his long detention at Algoa Bay, the turbulence of his people and their final discharge by the authority of the magistrate, and without prejudice, as he stated, to the full allotment of land for the number whose deposits he had paid.

In the correspondence and statements with which you have furnished us, it appears that the memorial of Mr. Wait for an additional Grant was dated on the 25th March, and referred back to you on the 25th April 1822, that you reported favorably upon it on the 10th July following, and that on the 9th August 1822 the additional grant was approved of by letter from the Colonial Secretary.

In your return of May 1823 (printed) Mr. Wait is stated to have done little or nothing, and in your letter of the 24th December last you state "I cannot recommend the grant of the full location unless Mr. Wait shall shew further cause, himself only having resided, and very little having been done as to cultivation, particularly as Mr. Wait has applied for additional grants."

As we were unable to reconcile these reports with the statements that have been made to us, or with each other, we request you will furnish us with a Copy of your letter to the Colonial Secretary of the 10th July 1822, recommending that

an additional grant should be made to Mr. Wait, and that you will have the goodness to explain upon what grounds you then considered him entitled to 1000 acres in addition, and 18 months afterwards declined to recommend even the grant of his original allotment.

Mr. Wait's servants appear to have been discharged by Major Somerset a few months after they were located, consequently the fact must have been known to you when you visited the location in 1822. The suspense in which Mr. Wait has been held has been discouraging, and the delays injurious, and whatever may be the nature of his claims, we cannot but lament that an earlier decision should not have been given to them, but observing that the question regarding the title to his location is indefinitely suspended by your letter of the 24th December last, and that he is expected to shew some fresh cause for its being made over to him, we beg to know whether any steps have since been taken to remove a doubt, on which Mr. Wait has stated his prospects in this Colony are finally to depend. We have &c.

(Signed) JOHN THOMAS BIGGE,
WM. M. G. COLEBROOKE.

[Copy.]

Letter from the Landdrost of Albany to the Commissioners of Enquiry.

GRAHAM'S TOWN, 25th March 1824.

GENTLEMEN,—In reply to your Letter of the 24th Instant requesting to be informed whether a Colonial Pass for Richard White has reached my Office or whether any representation has been made by me which led to its being withheld, I have the honor to state that no such document has been received at my Office, and that no representation respecting it has been made by me.

In explanation of my reason for objecting to permit Messrs. Slowman and Kidson to quit their Location, I have the honor

to transmit a Copy of my Letters to the Colonial Secretary dated 11th March and 8th April 1822, on the subject, and of his replies thereto. I have &c.

(Signed) HARRY RIVERS.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 26th March 1824.

MY LORD,—I transmit to your Lordship herewith enclosed certain papers addressed to the Orphan Board at the Cape of Good Hope, which having been put into the hands of His Majesty's Minister in Switzerland by the Government of the Canton of St. Gall, have been forwarded with the view that I should desire your Lordship to cause them to be delivered to the Orphan Board. I have &c.

(Signed) BATHURST.

[Original.]

Letter from LORD CHARLES SOMERSET *to* EARL BATHURST.

CAPE OF GOOD HOPE, 26th March 1824.

MY LORD,—The Public Offices in Cape Town having required some slight repairs which, to prevent deterioration, it was expedient should be executed before the setting in of the Winter Season, I directed the Inspector of Buildings to call for Tenders for the Work the lowest of which amounting to Rds. 6513 I have accepted. I therefore beg to solicit that Your Lordship will sanction this Expende, and apprise the Audit Office of your decision. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 26th March 1824.

MY LORD,—On a representation made by the Resident at Mossel Bay of the scantiness of his Salary and of the necessity he is under of occupying his own Premises, the Government Building allotted to the Resident affording accommodation for the Boat's Crew only, I have been induced to allow him Rds. 600 annually for House Rent ; and considering it irregular that the Inspector of Lands and Woods should continue to be supplied with Stationery from the Colonial Office as he has hitherto been, I have directed the charge in future to be kept distinct. But as these items are both of a fixed contingent nature and require your Lordship's particular sanction I beg you will be pleased to allow them to be placed on the Schedule of fixed contingencies and communicate your Decision to the Auditors of Colonial Accounts. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Copy.]

Letter from the Landdrost of Albany to the Commissioners of Inquiry.

GRAHAM'S TOWN, 26th March 1824.

GENTLEMEN,—In reply to your letter of the 25th Instant relative to the complaint of Mr. W. Wait, I have the honor to transmit a copy of my letter of the 10th July 1822, recommending the grant to Mr. Wait of a small plain near the sea, and to state in explanation of my letter of the 24th December 1823 that the grant of the full location had been refused, but not on a report from me in May 1823, by His Excellency the Governor, who had before objected to making the full grant. I was not however referred to, and did not make any report on a previous memorial from Mr. Wait for the full location.

No question has arisen as to the grant recommended by me in July 1822, and the caution which Mr. Wait states I gave when he called on me two months ago must have been with reference to his other memorial, the compliance with which had been made by His Excellency to depend on Mr. Wait's shewing hereafter that he possessed the means of cultivating and stocking the land fully.

It is very possible I might have recommended the grant in July 1822, and not have seen reason in December 1823 to have recommended that which had been before refused and which was rendered the less necessary by the previous grant, and I am not aware, as I have not seen any document to that effect, of the discharge of Mr. Wait's servants having been accompanied with a guarantee that his claim to the grant of the full location should not be affected thereby. I have &c.

(Signed) HARRY RIVERS.

[Printed Copy.]

Report of the Proceedings in the Case of His Majesty's Fiscal versus L. Cooke, W. Edwards, and J. B. Hoffman, for an alleged Libel on C. Blair, Esq., Collector of Customs.

With an Appendix of Papers, illustrative of the case.

Cape Town :

Printed and Published by G. Greig, Commercial Press.

1824.

His Majesty's Fiscal *v.* L. Cooke, W. Edwards, and J. B. Hoffman.

This was an *ex officio* prosecution brought by His Majesty's Fiscal against the Defendants ; charging the first with having written and signed, the second with having drawn up and forwarded to His Excellency the Governor, and the third with having copied a certain libellous statement, in the shape of a Memorial to the Lords of the Treasury, accusing Mr. C. Blair,

Collector of His Majesty's Customs, of having committed divers mal-practices in the distribution of Prize Negroes and of having, in many instances, made donations of these people to satisfy the claims of several of his creditors.

A list of about sixty witnesses (among whom the name of His Excellency the Governor appeared) was exhibited by His Majesty's Fiscal, as containing the names of witnesses required by the second defendant; but to this mode of proceeding the Fiscal objected, as being contrary to the Roman and Dutch Laws, which leave it to the discretion of the Judges to inquire into the nature of the evidence, and authorize them to select those only who appear relevant to the matter at issue; and therefore prayed, that the Court should require from the defendants to state the facts to which they required every witness to speak, with liberty to the Judge to curtail such as might not appear to be relevant.

The Court decreed the inquiry to be proceeded in regularly—reserving to themselves to decide upon this question after the interrogatories were answered by the Defendants.

Upon proceeding to the interrogatories, the second defendant, W. Edwards, proposed four exceptions, as a plea in abatement.

1st. That His Majesty's Fiscal had committed a gross neglect of duty in not attending to the 33rd article of the "Crown Trials," which directs, that all trials should be proceeded in within *eight days* from the decree of the summons in person: whereas the decree was granted by the Court on the 5th instant, and the trial only commenced this day, the 16th, which by no rule of arithmetic could be made to come within the time prescribed by the statute.

2nd. That His Majesty's Fiscal had been guilty of a dereliction of duty in not summoning *all* the witnesses to appear this day: none in fact had been summoned—and this also was contrary to the 38th Article of the "Crown Trials."

3rd. That His Majesty's Fiscal had been guilty of a gross and detestable falsehood, in not religiously adhering to the truth and the evidence before him, as prescribed in the 36th Article of the Crown Trials; he stating, that a Prize Negro, William Cousins, had been compelled, by threats from Mr. C. Blair, to return into his service after the expiration of his 14

years apprenticeship ; whereas the Memorial to the Lords of the Treasury deemed libellous, did not warrant that assertion ; as nothing could have compelled that negro to return into his service.

The Defendant (Mr. Edwards) was proceeding to charge His Majesty's Fiscal with similar untruths—which, in his opinion, would render him liable to corporal punishment when the Fiscal rose, and in great warmth claimed the protection of the Court against the scurrilous language used by the defendant : —The Court, after having twice warned the defendant against using such indecorous language, condemned him to *imprisonment for one Month* : and postponed the trial until a future day.

Wednesday, Feb. 18, 1824.

This case, the hearing of which was put off on Monday the 16th, came on to be further heard this day, and seemed to excite very considerable interest. The avenues leading to the Court were crowded at an early hour. On the assembling of the Court, the defendants were not, as before, called in together, but separately.

The proceedings were commenced by the Court calling the first defendant, Mr. L. Cooke, who was asked, whether he was willing to answer such interrogatories as had been exhibited by the Fiscal ?

Mr. Cooke said, that previously to answering any questions, he had an exception to take to the incompetency of the Court ; —which he read as follows :

“ I cannot allow this inquiry to be proceeded in, without laying before your Worships a true statement of this case, the result of which I doubt not will prove that His Majesty's Fiscal has been premature in bringing this action forward : that there can exist no grounds for the present action in the present state of this case, and that therefore this action, *in limine*, ought to be withdrawn from the cognizance of your Worships. I commence by acknowledging what I conceive would be a disgrace to my character to deny, and an insult to the persons whose grievances I thought it necessary to lay before the competent Authorities, that I directed to be drawn up, examined, approved, and signed, the Memorial addressed to the Right

Honorable the Lords Commissioners of His Majesty's Treasury, treated as libellous by His Majesty's Fiscal, and the subject of the present prosecution. In how far this document may be deemed libellous, does not belong to me now to consider, although I trust I shall be able fully to exculpate myself on that head, should the principal merits of this case still remain to be discussed hereafter; but here I beg leave, with the utmost submission, but still with the greatest confidence, to maintain that this document, whether libellous or not, cannot legally, in the present stage of the proceedings, form the subject of a criminal prosecution. Impelled by a sense of duty towards the public, and to several unfortunate subjects, whom I saw the silent victims of arbitrary power; become myself the object of violence and insult, because I presumed, in the mildest manner, to advocate the cause of one of these who had faithfully served me for several years, to whom I felt a reciprocal attachment, and hearing at the same time, from various channels, of similar and worse practices, in the disposal of Negroes, I thought it a duty to them, as well as to society in general, to represent such cases of which I had proofs in support of my assertions, through the proper official channel, to the constituents of my present accuser, Mr. Blair.

“This Memorial is drawn out without the slightest wish to be offensive to His Majesty's Government. It contains an official Charge and Information solely against Mr. Blair, not affecting his private character, but his public situation as Collector of His Majesty's Customs. This Memorial was not published, no publicity whatever was given to it here, and it was only forwarded to *His Excellency the Governor* (with the knowledge of the Collector of Customs), for the sole purpose of being laid by his Lordship before the proper authorities, as an official impeachment against the Collector. This Memorial was diverted from that channel. The Right Honorable the Lords of the Treasury have not as yet pronounced upon its contents. And I therefore beg leave to submit, that it would be prejudging this case, that it would be doing an injury to me, and to justice in general—an injury which never could be remedied—were this prosecution allowed to be gone on with, in the face of a charge which has been made officially, from a sense of duty to myself and the public, through the proper

channel and to the proper authorities ; —a charge which has not as yet been inquired into—for which the time is not yet come to inquire. Upon these grounds, therefore, I beg leave to propose an exception against the legality of this summons, and to pray for an absolution, *ab instantia*, with costs."

The *Fiscal* replied at some length, contending that it was a Libel, and that the Treasury was not the competent authority to which to appeal.

Advocate *Cloete*, for the first defendant, asked leave of the Court to argue in support of the exception.

The *Fiscal* objected to it, as being contrary to the 42nd Article of the Crown Trial.

The Court rejected the application of Advocate *Cloete*, and overruled the exception.

Advocate *Cloete*, for Mr. Cooke, gave notice of appeal against this decision, to the full Court.

The first defendant was then interrogated, whether he had wilfully, and with a malicious intention, composed, published, and signed a certain libellous writing, which was exhibited ?

Mr. Cooke admitted that he had signed the Memorial, but not with a malicious intention. He was then interrogated as to what he could advance in excuse ?

Mr. Cooke requested to be heard by his Advocate, Mr. *Cloete*, who proposed to conduct his defence by calling some of the witnesses named by the second defendant.

Mr. Edwards, the second defendant, was then called, and informed by the Court, that he was at liberty to proceed with his exceptions :—He then replied, that on a previous day, in urging his third exception, he asserted, "That the *Fiscal* had stated a detestable falsehood," for which he was committed to prison : that he had been three days in prison, considering the matter, and had not altered his opinion one jot ; but, for fear he might be again incarcerated, he would not pursue his exception. In support of his fourth exception, "as to the competency of the Court," Mr. Edwards had intended to have urged, that the step which he had taken was the only mode of bringing Mr. Blair to justice ; His Excellency the Governor having declared officially, that the Colonial Government had no authority over Mr. Blair in regard to Prize Negroes. He further cited "*Blackstone*," vol. I, p. 143, showing that in case

of uncommon injury, His Majesty's subjects might seek redress by Petition to the King or Parliament. And by statute I W. & M., all prosecutions for so petitioning are illegal.

He went on to state, that Mr. Cooke, himself, and Mr. Blair, were all natural born subjects of his Majesty; and cited "Blackstone," vol. I, p 370, which states, "The Prince is always under a constant tie to protect his natural born subjects, at all times, and in all countries." He cited also, "Justinian's Institutes," to prove that any subject detecting and exposing the malversation of public officers, so far from prosecution, was entitled to certain honors; and that the Fiscal, instead of prosecuting him, had he faithfully discharged his duty, on reading the Memorial should have brought Mr. Blair to trial. He boasted in this Court that he had courage to attack any person, however exalted his office, who offended against his duty. Vain boast! Why did he not, when he read the serious charge contained in a Memorial from so respectable a gentleman as Mr. Cooke, cause an investigation into the conduct of Mr. Blair, as was done in the case of the Landdrost of Tulbagh? Why did he not prosecute the culprit who intercepted that Memorial, if he had so much courage? "I," said Mr. Edwards, "boast no great courage; yet, if you will show me the man who presumed to intercept that complaint to the Lords of the Treasury, be it Mr. Fiscal, Mr. Blair, or any other Mr.; whatever may be his rank or title—I will pray the Court to place me in the situation of Fiscal, *pro tempore*; we will change places; he shall stand where I now do, a prisoner, and I pledge myself, in defiance of every obstacle, to bring the delinquent to justice. Then you shall see, Mr. Fiscal, who has the courage to attack malversation."

He further cited 12 W. 3, C. 2, to prove that no denizen can hold any office of trust, civil or military, under the Crown; and that Mr. Denysen, not even being a denizen, was not eligible to the office of Fiscal. These and many other arguments he could have urged, but feared the warmth of his feelings might be again construed into disrespect to the Fiscal, and render him liable to further imprisonment; he would therefore abstain from pressing his objections.

The *Fiscal* replied, in answer to the first exception, that although the summons for personal appearance was granted

on the 5th of February, yet, as he did not take it from the office until the 9th, he was entitled to calculate the eight days required by the 33rd Art. Crown Trial, from that day. In replying to the second exception, he said that he had submitted to the Court his reasons for not summoning the witnesses for the accused, agreeably to the 8th Art., many of them were public officers, and their attendance would be inconvenient. An entire silence he thought the most becoming course with regard to the third exception. As to the fourth, he contended that as Mr. Edwards had in a former case submitted to the jurisdiction of one Commissioner, he could not now object to that of two. He admitted the parties were English subjects, but he did not see that they were consequently entitled to be tried by English law in every part of the globe. The defendant had objected to his being Fiscal; he could however tell him that he had the honor to be approved by His Majesty's Secretary of State; that he had filled the situation 12 years, and this was the first time his conduct had ever been called in question; and he desired the defendant to understand that he would continue to hold his office until deprived of it by some better authority than the defendant could produce.

The Court was cleared, and on our re-admission, we found that all the exceptions taken by the second defendant were over-ruled.

Mr. Edwards was then interrogated, whether he had wilfully and *mala fide* published, by sending to his Excellency the Governor, the said Memorial?

Mr. Edwards answered.—“I did nothing wilfully nor *mala fide*. I wrote part of the Memorial signed by Mr. Cooke; and sent it to the Lords of the Treasury *bona fide*. I never published it, nor do I know how it was intercepted, or came here.”

On being asked what he could urge in excuse for it; he answered—“I justify it—I glory in it. It is the duty of every good subject to inform His Majesty of the mal-practices of his servants. I have ever done it, and ever will.”

Mr. Hoffman, the 3rd defendant, was then called, and in answer to interrogatories, denied all knowledge of the transaction.

A letter from Mr. W. Bird was here produced by the Fiscal,

stating that Mr. Blair was seriously indisposed, and could not attend. The Court therefore adjourned the further hearing until Friday.

Friday, February 20.

The same degree of interest was excited as on *Wednesday*. The Court was nearly filled from the commencement ; and the further hearing of this case was resumed. The three defendants were all in court this day.

The *Fiscal* moved the Court to extend the *whole* charge to the second defendant. He said he grounded his application on the defendant's answer to the interrogatories on a former day : and cited the 24th Article of an English translation of the laws of Demerara, as his authority. He then handed the book over to the defendant Mr. Edwards. On reading this article, the defendant declared, that the Fiscal must be wholly ignorant of the English language, or have wilfully perverted its meaning, the article in question not in the least justifying the conclusion the Fiscal had drawn. He conceived this was a continuation of that system of persecution which had been adopted against him for doing that which the Fiscal should have done, but which he had not courage to attempt, after Mr. Cooke's complaint had lain dormant in his office for seven or eight weeks. He would take this opportunity of saying, that as it had been alleged that he had treated the Court disrespectfully, he felt it necessary for him to repel so foul an insinuation. He had been bred to the law ; he had been for many years a witness to the impartial distribution of justice in his own country ; during which time he had learned to honor and revere every honest magistrate, meet him where he would ; and he would tell the Fiscal that even in this place he could not shake off his early impressions. In that Court the Fiscal was entitled to no more protection than any other advocate. In his office, the Fiscal had offered him a private insult, and the present was the only opportunity of retaliating : —“ Yes ” added Mr. Edwards, “ when I was in his office, arguing dispassionately and respectfully against the illegality of his conduct in intercepting a complaint, by one of His Majesty's subjects, against one of His Majesty's servants, and that all prosecutions for writing petitions were declared by

stat. 1 W. & M. to be illegal ; he burst into an impertinent and intemperate declaration (worse than that for which I was sent to prison—because it was unprovoked, unjust, unlawful, and unbecoming,) that he would hold no further conversation with me until we met in Court.—‘ There,’ said he, ‘ you shall hear me.’ Now had the Fiscal known to whom he addressed that impotent taunt, he would have felt it dangerous to rouse a lion that will destroy him ; he would have known that I cared as little for his menace as for his persecution or himself ; and that in Court—out of Court—at all times and in any place, I am, at the very, very least, his equal—taking his gown, his influence, his office, and his authority into the bargain ; he would have known there was something in the free, honest, unbending spirit of an English lawyer, not to be insulted with impunity ; he would have known it would take more grates, bars, and oppressions than he can possess, to tame a soul reared in the lap of liberty ; he would have known that he may manacle my hands, he may shackle my feet, and he may cast my person into a cell ; but I can tell him my soul bids defiance to every Fiscal ; it will soar above him, if will hover over him, it will pounce upon him when and where he least dreams.”

The *Fiscal* here interrupted the defendant, and claimed the protection of the Court against expressions so personally directed, and declared, unless he were protected, he could not continue to sit there.

The Court was then cleared to deliberate, and on its reopening, Mr. Edwards was informed, that the *Fiscal*’s application was refused.

The *Fiscal* then gave in a list of his witnesses, consisting of Mr. C. Blair, Mr. Wilberforce Bird, Mr. Ponterdent, Mr. Tyrholm, Mr. Lind, and Mr. Bendall. The two latter were to prove the Memorial was copied by Mr. Hoffman. Mr. Tyrholm to prove that Jean Elle had been his servant on his first landing, and, after some years, was restored to the Collector of Customs, for ill-conduct ; the three first were to prove the falsehood of the Memorial.

Mr. Edwards here objected to evidence being called to prove anything *not charged in the indictment* ; it not being therein once alleged that any part of the Memorial was untrue. On the contrary, the indictment says, “ that the Memorial was

written seemingly with the intention to bring to the cognizance of the Lords of the Treasury Mr. Cooke's complaint against the Collector of Customs, requesting them to cause an investigation thereof, and afford him redress ; and that he did also, with the intention to expose the officers of Customs to the hatred and contempt of their superiors, and to bring them in danger of being ignominiously discharged from their situations, make remarks, and allege facts, by which they are represented in a contemptible and criminal aspect." He then argued, that inasmuch as the assertions in the Memorial were admitted to be " facts,"—and as facts are truths—he could hardly conceive how any man, pretending to be a lawyer, would attempt to call witnesses to prove that his own assertions were *false*. He had no objection that Mr. Blair, Mr. Bird, and Mr. Ponterdent, should be called to prove the truth of the Memorial, as out of their own mouths he would convict them.

He admitted that Jean Elle had served Mr. Tyrholm faithfully while a prisoner of war, but on the war terminating, he became a free man, and was no longer willing to serve as a slave. He thought it a novel thing to bring a writing-master to prove Mr. Hoffman's writing, and upon that proof prosecute him ;—the paper-maker, or the goose, whence the pen with which it was written was plucked, might as well be prosecuted.

The Court called on Mr. Edwards to say what was the purport of the proofs he wished to produce. He answered, he was prepared to prove the truth of everything contained in the Memorial, and much more. The defendant then asked the Fiscal whether he had not communicated a list of his witnesses to Mr. Blair ?

This the Fiscal refused to answer.

Mr. Edwards stated, that this refusal, in his opinion, proved the fact ; and as the Fiscal would not answer, he could tell the Court that this list had been exhibited to Mr. Blair : who had taken advantage of it, by tampering with some of his (the defendant's) witnesses. He would put this question to Mr. Blair on his oath ;—if he denied it, by the evidence of two witnesses he was prepared to prove it to the Court.

The Court intimated to the defendant, that if he could prove what he asserted, he might proceed against the Fiscal and Mr. Blair.

The defendant replied, he was aware where and how to seek for justice. But he knew better than to assail a snake in its own hiding place. It was nothing encouraging to him to be told by the same breath which sent him to prison for exposing the Fiscal's falsehood, that he might prosecute him for it. He then declared that he had already petitioned the House of Commons against the unjust and unlawful proceedings the Fiscal had adopted. "Here" (said he) "the Fiscal sits dressed in all possible power—there he will appear a culprit; and I not only received as a man of well known character, but as an undaunted patriot: my character will place me as far above him there, as he is here above the lowest menial of this Court."

The Court was cleared for deliberation, and on our re-admission it was adjudged, that no witnesses should be examined as to the truth or untruth of the Memorial.

Mr. Advocate *Cloete*, for Mr. Cooke, appealed against this decision, as did Mr. Edwards.

Mr. Edwards then stated, that as at the best of times he was unable to bear the expences of this prosecution, he was the less able to do so in prison, having little but the honest earnings of his business to support him:—he therefore prayed the Court to grant him an advocate to plead *pro Deo*, and also to have copies of papers, &c., free from Court fees.

The Court required a Certificate of his inability to defray the expence, which being made, we understand Mr. Advocate *Brand* was nominated.

Mr. *Lind* was called and sworn.—He had formerly been a Clerk to Mr. Hoffman. Thought some words like his writing, but he could not speak to the fact. Many years had elapsed, and he would be a bold swearer who should speak positively after so great a lapse of time. Mr. Hoffman's protocol was shown to the witness. — He could discover no decided resemblance.

Cross-examined. He had not seen Mr. Hoffman write the Memorial.

Mr. *Bendall* was called, and sworn.—Is a writing-master and teacher of mathematics. Could not, professionally, decide whether two hand-writings, bearing some resemblance, had been written by one person.

The *Fiscal* proposed, in the absence of direct proof, that Mr. Hoffman be acquitted :—And the Court, after a short deliberation, pronounced him *Acquitted*.

Thursday, Feb. 26, 1824.

On appeal to the Full Court (with the exception of Sir John Truter, Chief Justice, who was out of town).

The proceedings were commenced by Mr. Advocate *Brand*, who rose to argue in support of the Exceptions taken by the defendant Mr. Edwards, on a former day, and which, having been over-ruled by the Court below, were appealed from to the Full Court.

Mr. Advocate *Cloete*, who appeared for Mr. Cooke, in the course of his argument, read the Memorial, which gave rise to the prosecution : this we now subjoin, together with the Indictment.

To the Right Honourable the Lords Commissioners of His Majesty's Treasury.

The Memorial of Launcelot Cooke, of Cape Town, in the Cape of Good Hope, Merchant, Respectfully Sheweth,

That by an Act of Parliament made and passed in the forty-seventh year of the reign of his late Majesty King George the Third, entitled “an Act for the Abolition of the Slave Trade,” it was enacted that all Subjects or inhabitants of Africa, unlawfully carried or imported as Slaves into His Majesty's Colonies, should be seized, prosecuted, and forfeited, in the like manner and form as Goods and Merchandizes unlawfully imported, and that after the condemnation thereof, such subjects or inhabitants should be bound as apprentices for a term not exceeding 14 years, on such conditions as His Majesty by an order in Council might direct or appoint.

And it was further enacted, “that any Indenture of Apprenticeship, duly made and executed by any person or persons to be for that purpose appointed by any such Order in Council, for any time not exceeding fourteen years, should be of the same force and effect, as if the party thereby bound an apprentice, had himself or herself, when of full age, upon good consideration, duly executed the same.”

And that His Majesty the said King George the Third, did, by an order in Council, afterwards direct, that all such subjects or Natives of Africa, so seized, forfeited and condemned, should be placed out as Apprentices, by the Collector of Customs.

Also that in or about the year 1810, the French Packet *L'Ector*, trading from St. Denis to Port Louis, being captured by the English Brig *Race Horse*, one Jean Ellé was found on board thereof, who stated that he was a free man of colour, a native of Bourbon, employed as a Seaman on board such Packet, but being unable to speak English or Dutch and the Inhabitants of the Cape ignorant of the Patois of Bourbon, he could not make himself understood and was ultimately placed out as an apprentice, by Charles Blair Esquire, the Collector of Customs at this Port, and after having served two several Masters, some years, he was removed by the Collector of Customs and placed with Mr. Samuel Murray, who hired him to your Memorialist's establishment, nearly six years, at the rate of Thirty-five Rixdollars per mensem, when at the death of the said Samuel Murray, the said Jean Ellé requested your Memorialist to permit him to continue in his Service, alledging, that he had only a very short time to serve of his original apprenticeship, to which your memorialist consented from the good opinion he entertained of the man, acquired during his long and faithful Service, and he paid his wages to him, until on or about the 21st day of November last, when he received an order from Mr. Blair to deliver up Jean Ellé to William Wilberforce Bird Esquire, or his order, accompanied by a Note from the said Mr. Bird, who is the Comptroller of Customs, requiring the man to be sent to the Custom House.

That he immediately informed the said Jean Ellé of such demand, and requested him to go there, as desired, but on his representing that he had so long served your Memorialist with fidelity and industry, and hoped he should not be abandoned at the close of his servitude, your Memorialist replied, that though he was unwilling to force him away, he could not disobey the peremptory order of the Collector of Customs, and requested the man to go as desired; yet he nevertheless refused to do so, until he found he was destined to serve one H. M. Pegou Esquire, the son in law of Mr. Wilberforce Bird,

the Comptroller of Customs, and that the Police were searching to apprehend him for disobedience of orders, when he instantly repaired to the Custom House.

That a few days before Jean Ellé could be prevailed upon to leave the employ of Memorialist and his copartner, Mr. Pegou called at their house, where witnessing Jean Ellé's reluctance to leave them, he said, if another Cook could be recommended to him, he was willing the man should remain where he was, whereupon after consulting a Gentleman in the Law, many years acquainted with the arrangements made by Mr. Blair on similar occasions, your Memorialist subsequently met Mr. Pegou, and stated, that he was willing to meet his proposal and pay the wages of any cook he might hire ; when pretending to be offended he rudely left your Memorialist without an answer.

That whilst Jean Ellé was waiting at the Custom House, your Memorialist, from a wish never to offend or oppose the constituted authorities of His Majesty, and supposing from a frequent repetition of a similar interference by Mr. Blair that he was empowered by Law so to do, repaired to the Custom House where he saw Mr. Blair, on horseback, in company with Mr. Wilberforce Bird, and accosted him respectfully in the presence of Mr. Roberts, the Head Clerk in the Establishment of Memorialist, for the purpose of informing him that the man's objection to leave his employ was the cause of the trifling delay : whereon Mr. Blair in the most violent, loud and insulting manner, holding up his whip or stick, in a threatening attitude said to your Memorialist : " Damn you Sir, hold your tongue or, by God, I'll knock you down. God damn you Sir, don't speak a word, or I'll knock you down ; if you had said as much to me as you said to my Friend Mr. Pegou, I would have blown your brains out, damn and blast you, I would you Scoundrel," and as he rode away, he called your Memorialist " a damned Son of a Bitch " and Mr. Wilberforce Bird, who was in company with Mr. Blair, at the commencement of your Memorialist's attempt to speak, instantly rode off, the moment he perceived Mr. Blair under the natural influence of his temper, that he might neither restrain or be called to bear witness of his brother Officer's insolence.

That your Memorialist, having no other wish than to receive

such an apology, as His Excellency the Governor might think fair, complained of this outrage, when Lord Charles Somerset, ever anxious to discharge his duty with an impartiality befitting the representative of His Majesty, applied to the Collector of Customs, and as might have been expected, a person capable of descending to such abusive expressions, would be sure to contradict them, Mr. Blair did so, though he pretended to glory in one part of his rudeness, as communicated by His Lordship, with the enclosure from Mr. Blair.

Your Memorialist humbly submits that this vainglorious boast of Mr. Blair's carries its own refutation in its face ; for had Memorialist insulted Mr. Pegou, as is pretended, it is clear that he was either able to resent it himself, or unworthy the aid of a proxy.

However as your memorialist conceives that the ipse dixit of Mr. Blair cannot be set against the Oath of himself and Mr. Roberts, he annexes Depositions taken before a notary, agreeably to the Laws of this Colony, and also one of Jean Ellé, on which he confidently appeals to your Lordships for redress.

Your Memorialist further respectfully submits that when this man was once placed as an Apprentice, the legal right of interference in the Collector of Customs ceased, as in the case of a Parish Apprentice in England, where the Master has a Chattel interest that devolves on his Executors, and therefore as your Servant cannot have been actuated by a sense of duty, he feels it imperious on him to draw your Lordships' attention to the fact of his having in the first instance put this man out as an Apprentice, he being a Sailor Cook, and as he has always declared, a prisoner of War. If Mr. Blair had been influenced by the benevolent spirit of the Abolition Act (and Jean Ellé had been a slave in reality) when he found him a man near thirty years of age, so good a cook, and so well able to earn the bread of honest industry, he would have satisfied the law, by placing him in some family for a few months, instead of fourteen years ; but this would not satisfy the necessities or the wishes of Mr. Blair, who acquired consequence and credit by disposing of so many Slaves of the most unfortunate order ; and if your Lordships would afford your protection against the future oppressions of the Officers of Customs, several Cases

should appear before you of Mr. Blair's privity to such contracts as that offered to Mr. Pegou, at which he expresses such indignation ; to contracts, even more corrupt, some, wherein, when persons have pressed him for payment of his debts, he has promised them greater advantages, which have ended in donations of miserable Creatures, thus abandoned to those whom he dare not to assail, sacrifices to his necessities, victims of his oppressive partialities. Hearing of his insolence to your Memorialist, several persons in Cape Town of the greatest respectability, highly indignant at such demeanour, came to Memorialist with accounts of the manner in which he had disposed of Negroes to themselves, and are now ready to make Oath of these facts ; but your Memorialist unwilling to expose them to the powerful vengeance of the Custom House, wishes first to obtain an assurance of your Lordships' protection towards them. The English Senate intended to have been the friend and protector of the wretched Negro ; but in this case it has been the greatest misfortune. Here is a man well able to earn Thirty Five Rixdollars per month as a Cook, who, on pretence of being taught a business, is bound by the ruthless cupidity of His Majesty's Servants, to serve the most valuable part of his life to the favourites of the Collector of Customs at Cape Town.

Had Jean Ellé been a Slave in fact and remained so, after so valuable a portion of his life spent in the service of his Master, the Law would have compelled that Master to support him in his old age ; but here is a man serving the prime of a valuable life for the advantage of those, who, in old age, will desert him to all the miseries of want.

Your Lordships will feel how inconsistent is such conduct with the philanthropy that abolished Slave-dealing. Your Lordships will feel how wretched is the state of that Slave who under the benign indulgence and protection of Mr. Blair, is cursed with liberty at the end of a cruel, abject and unprofitable Slavery of fourteen years, left to starve in the decline of life, after having worn away his strength by the goadings of those who have no interest (like the real Slave Proprietor) in well treating these poor people, to make their old age more vigorous.

Your Lordships will feel what sentiments actuated Mr. Blair,

when on a very recent occasion one William Cousins, who had served him fourteen years, and been a voyage with him to England, on applying for a certificate of the expiration of his Apprenticeship, was cruelly told he should never have it unless he would return to his Service.

Your Lordships will feel what is the general tenor of Mr. Blair's character, his humanity, his mildness and his justice, when you are informed that this poor man preferred all the horrors of starvation rather than return to a Master who had made him so miserable, and such must have been his fate ; so great the terror of the Collector of Customs, had not the benevolence of one of your Memorialist's acquaintances prompted him in defiance of the malediction and the denunciations of this great man, to take the poor Negro for his servant.

Your Lordships will feel and appreciate the spirit that urged Mr. Blair, when he saw an unhappy Negro, who had served your Memorialist for the benefit of Mr. Samuel Murray above six years, anxiously soliciting to be continued in the same employ, so callously rejecting every solicitation, although the man becomes free again on the 1st of March next.

Your Lordships will feel, whether it was an amiable thing in a person entrusted with the exercise of His Majesty's benevolence so relentlessly to separate a master and a servant, whom he saw happy and satisfied in so long a connexion.

And your Lordships will feel and judge whether the violence of his language to Memorialist, the indecency of his expressions in the letter to the Governor, and the unfairness of his conduct in taking Jean Ellé away from your Memorialist in violation of every principle of humanity towards the poor man, merely to supply Mr. Bird's Son in Law with a Cook, was befitting him who holds an important trust under the King, in which equanimity of temper, humanity, disinterestedness and benevolence of heart ought to shine in a Superlative degree.

Your Memorialist thinks it due to himself to say, that he is not impelled to this complaint from a desire to oppose the Servants of His Majesty, or from a vindictive spirit of revenge, for, although through life no one has possessed a warmer or a better spirit of loyalty, or a more forgiving disposition towards those who have injured or insulted him ; yet he owes it to his

own rank in Society, to call from your Lordships for justice on Mr. Blair, who has thus trampled on all the decencies of life : and he does this more confidently, knowing that you are most able and most willing to screen Gentlemen from the insolence of Office.

And he sincerely assures your Lordships, that whatever may be your decision, with that decision he will rest most perfectly satisfied.

Wherefore he prays that your Lordships will be pleased to cause an enquiry to be made into the conduct of the Collector of Customs towards him, and judge thereon, as you may deem meet.

And he will ever pray &c.

(Signed) LANCELOT COOKE.

Advocate *Cloete* then observed, that this, perhaps, was the most extraordinary prosecution ever instituted before this or any other Court of Justice, as might be gathered from the circumstances of the case, which are briefly these :—

It appeared that the real prosecutor in this case, Mr. Blair, Collector of Customs, wished to take from the defendant a cook whom he had hired for some years from Mr. Samuel Murray deceased ; and which Cook the Collector of Customs had, immediately after the decease of the said S. Murray, promised to one of his friends. The cook, being unwilling to leave the service of the defendant, refused for some time to go, and the defendant called on Mr. Blair to explain the cause of the delay, when he was grossly insulted by him, and therefore lodged his complaint with the Government and the Fiscal. Some weeks elapsed, during which Mr. Blair refused to make that atonement to which the defendant was entitled ; and at the same time no steps were taken by the Fiscal to give the defendant that public reparation for the injury he had suffered which he had a right to expect from an equal and impartial administration of the laws. During this interval several persons communicated to the defendant many improper acts on the part of the Collector of Customs, which the defendant conceived it a duty to himself, to the public, and to the individuals who had suffered in consequence of the Collector's treatment, to bring these circumstances to the cognizance of

his superiors, by a petition addressed to them, drawn up by a notary public admitted by the Government of this country, whom he had requested to forward this petition through the usual official channel, by means of His Excellency the Governor, to enable the latter to forward the same to the Lords Commissioners of His Majesty's Treasury, accompanied by such remarks as to His Excellency should seem meet. Shortly afterwards, when the defendant applied for a passport to leave this Colony for the purpose of settling his affairs in England, he was surprised by a refusal; and a few days later he was informed that he would be prosecuted criminally before the Court of Justice; which prosecution actually commenced on the 16th instant, and was then postponed till the 18th, when the defendant pleaded the exception of incompetency of the Fiscal now to prosecute.

Mr. Cloete then said, that in order to enable the Court to judge fairly of the nature of the case, he had thought it necessary to read the whole of the Memorial, from which only extracts were quoted in the Indictment:—"This," said he, "is the Memorial transmitted to His Excellency the Governor, in order to be forwarded to the Lords Commissioners of the Treasury, either with or without the Governor's own remarks:—this is that act of public violation of the laws tending to disturb the peace, and to give an example to others, which might be productive of the most pernicious influence on the morals of the inhabitants of this Colony:

"This is the great offence of the defendant, for which he is prosecuted. Now, in order to show to the Court that this exception is well founded, I think it necessary to refute the objections which the Fiscal made against it on a former day. The Fiscal contended, that the conduct of the defendant was calculated to produce disorder, to show a bad example to the inhabitants of the Colony. If this be sound doctrine, then every one commits a crime who retails a small portion of any article, the use of which would be detrimental—such as opium, laudanum, arsenic, and other poisons. By the same rule, a person carrying a dagger for the purpose of defending himself when assaulted, may be prosecuted for having attempted to disturb the peace, because peaceable inhabitants may be terrified at seeing him so armed":—"Who," said Mr. Cloete,

“does not feel the absurdity of this mode of inferring a crime ? ”

The prosecutor has said, that the Memorial is criminal because it bears marks of bad faith and irrelevant matter—because the defendant chiefly complains of the insult he received from the Collector of Customs. If this be a mark of crime, why was the defendant not prosecuted when he lodged his complaint with the Fiscal against the Collector of Customs for this insult ; as this might also tend to disturb the peace, and the respect due to persons high in office.

In order to show that there is nothing criminal in the Memorial, I crave the attention of the Court to it, and beg they may be compared with the law.

The Memorial is not a private writing, but an official instrument, containing a complaint offered to the defendant by the Collector of Customs, and a formal charge of the abuses which he is alleged to have committed in his public situation, by the disposal and other unlawful conversion of prize slaves : and, in addition, the Memorial is addressed to those only who have the power to inquire into similar charges.

It is scarcely necessary to refute the assertion of the prosecutor—that the defendant ought to have applied to him or to His Excellency the Governor—since it appears from the very correspondence of the deputy Fiscal, produced by His Majesty’s Fiscal, that the case lay dormant in his office from the 26th of November until the 12th January, without any steps being taken to bring the defendant to justice, and since the Memorial was transmitted to His Excellency the Governor ;—from whom, however, the defendant had been led to infer that, as the Collector of Customs was not appointed by him he was not under the control of the Colonial Government, and consequently the defendant could only address the Collector’s immediate superiors. The defendant, therefore, acted properly as to the form. It is not yet the time to inquire, whether the charges contained in the Memorial are true or *false* ; the question now at issue is only, whether the defendant transgressed the laws by using abusive and disrespectful language, or by deviating from the proper and regular mode of official information. It will be shown, from the act of accusation, that neither the one nor the other took place ; for in it the Fiscal states, that the defendant has in his

Memorial alleged *facts* which may tend to make the Collector of Customs appear criminal, and might expose him to dismissal from his situation. This statement, consequently, admits that the charges are not false or libellous, but that the result of the inquiry on these facts may be the Collector's dismissal. Now, according to the prosecutor's opinion, if I should happen to witness a murder committed by an officer of high rank, and inform against him, I should be liable to the same punishment which he deserved, because, by bringing the information against him, I exposed that officer to the loss, not only of his situation, but his life also, should the fact of the murder be inquired into. What, I ask the Court, would become of the laws, if similar references are not only tolerated, but even lead to a respectable inhabitant and merchant of the town being prosecuted on such fabulous charges. Without now inquiring whether the facts and charges contained in the Memorial can be substantiated or not, it is only necessary to remark, that the defendant has in his favor the legal presumption, that the facts may be true; in addition to this, the defendant has annexed to his Memorial the depositions of several persons, confirming some of these facts. Not a word or expression is to be found in them, deserving the accusation of scurrility or indecency towards those to whom this Memorial is addressed; and I shall therefore next inquire whether it was or was not lawful for him to cause this Memorial to be made out, and to sign and forward the same; and whether, consequently, he has not just reason to appeal from the decision of the former Court.

The English laws on this head agree so perfectly with the Roman and Dutch laws that either may be referred to. These unanimously enact, that it is not lawful for any man to utter, write, or publish anything with an intention to injure another's character; doing this renders him liable to a civil action for defamation; and, if accompanied by any act disturbing the peace, also to a criminal action. The laws in this respect are so distinct and simple, that if they be only not perverted or misapplied, there can be no doubt as to their true meaning; and in order to prevent any such perversion of these laws, the following exceptions to the above general rule are expressly laid down in the Roman Laws:—First, if any person sign any paper with his own name, (for anciently a paper was considered

a libel if either no name, or a false name, or signature were attached.) And secondly, when any person or magistrate is formally charged with acts in which the public is interested, and which call for an inquiry, in order that the offenders may be brought to justice ;—This was law with the Romans, as appears from the 18th Law, Digest : lib. 47, tit. 10. The same rule is laid down in the 32nd and 33rd Law. In the sect. 32, just now quoted, the manner of seeking redress against magistrates of any rank is more amply explained, and therefore there is no doubt that a subject is at liberty to lodge his complaints with those authorities who are competent to inquire into and redress them.

This agrees with the Dutch Law, as mentioned by professor Voet in his Commentaries on Digestorum, under the heads ‘ Libels,’ No. 9 ; and also by *Hugo Grotius* on Dutch Jurisprudence, book 3, chap. 36, part 2, in the following words :—“ To an action for defamation or libel, are liable, all those who either speak or write, in the presence or absence of another, in secret or publicly, anything by which his honour is injured, although it be true, *excepting* however, the mention of it to the proper authorities, in order to bring the offender to justice.”

This we find more fully laid down by *Groenewege*, in his treatise ‘ Re Lege abrog. in sect. 18 D ; and sect. 1, Codicis de Injuriis.’

There is consequently no doubt that the defendant has done what, according to the Roman and Dutch laws, he had a right to do ; and the more so, since the prosecutor admits that the facts and charges contained in the Memorial are of such a nature that the public is thereby interested and concerned, and that therefore an inquiry into the same is of the greatest importance to Government and the administration of justice, because otherwise, that Memorial could not have the effect of exposing the Collector of Customs to be dismissed from his situation, and yet this is the inference of the prosecutor himself, and contrary to those laws the defendant is prosecuted, whilst the Collector of Customs, against whom these charges are officially preferred, exultingly continues in the enjoyment of his uncontrolled authority, above the reach of the laws and these accusations. Having examined the Roman and Dutch laws, it will scarcely be necessary to refer to the laws of England,—

laws which, more than any others, have secured the liberty of the subject ; it will therefore be sufficient to refer to the Commentaries of the learned judge *Blackstone*, book 1, page 143, where it is laid down :—

“ 4. If there should happen any uncommon injury, or infringement of the rights before-mentioned, which the ordinary course of law is too defective to reach, there still remains a fourth subordinate right, appertaining to every individual, namely, the right of petitioning the king, or either house of parliament, for the redress of *grievances*.”—And it is declared, by the statute 1 W. and M., st. 2, C. 2. that the subject has a right to petition ; and that all commitments and prosecutions for such petitioning are illegal.

Mr. *Cloete* also quoted the case *Astley v. Younge*, 2 Burrows Rep. p. 811, and Holt's Law of Libel, cap. XI., p. 172, where it is severally laid down that no subject can be prosecuted for any matters contained in any memorial or petition involving the conduct of magistrates or public officers, sent through the proper channel, and done *bona fide* with a view of obtaining redress. And should it be necessary to illustrate these authorities with further examples, let us simply refer to the impeachment of Mr. Warren Hastings, Governor-general in India ; and to that of Lord Melville, the intimate and bosom friend of Mr. Pitt, prime minister of England. These officers were accused by persons, whose motives were self-evident : Were these accusers hindered from preferring their charges ? Were they even prosecuted, even when, upon a full inquiry, it appeared they were not able to substantiate all the charges they had preferred ?

But why should we travel to remote countries for precedents of this nature ; our own Colony presents us with numerous instances of the same kind. When, in the year 1780, our burghers Van Reenen, Artois, T. Roos, and Heyers, proceeded to Europe for the express purpose of exposing the misconduct of the greater part of the civil servants of the highest rank, to the directors of the Dutch East India Company, were they hindered by the then independent Fiscal or by the Governor, on the plea, that *they* were the competent authorities to inquire into these complaints ? Were *their* passports refused ? Was the road to obtain redress in a regular manner closed to them ?

When long before that epoch, the inhabitants complained against Governor Van der Stel, were they prosecuted for it, according to the principle now alleged, that such modes of complaining tend to set a bad example to peaceable and well disposed citizens? If we were to come down to later times, we would ask the prosecutor himself, whether he followed the present system, when the Secretary of Tulbagh preferred charges of a serious nature against Mr. Van der Graaff, the Landdrost of that district; did not those charges in the very manner in which they were preferred, betray evident proof of the personal animosity, rancour, and bad faith? Did not this same Fiscal then conceive it his duty to investigate these charges in a judicial manner? Was not a criminal prosecution first commenced against the Landdrost; and even afterwards when some of the charges were not substantiated, was not the accuser acquitted of the charge of libel or calumny?

Should the first decree of the Commissioners of the 18th be affirmed, the witnesses named by the defendants must be examined, as they will prove the truth of every charge preferred against the Collector of Customs in the Memorial, and thereby acquit the second defendant of every imputation of blame, fault, or criminality, upon the very merits of the case; there is then no alternative:—If this case ought not to be inquired into in the present stage of the complaints, and dismissed *a limine judicii*, as I humbly contend, the exception on the first appeal ought to be admitted, and that decree reversed; if, on the other hand, the defendant must stand on his trial on the charges preferred in the indictment, he can only defend himself, by having recourse to that evidence which he possesses, and which will prove his innocence in the clearest light.

Advocate *Cloete*, in conclusion, maintained, that, for the reasons above given, the decisions of the Court below, now appealed from, should be reversed, and the exception taken by the first defendant admitted, with costs.

The *Fiscal*, in reply, contended, that the only questions were as to the competency of the Court, and the libellous nature of the Memorial.

The *Fiscal* professed much respect for the laws and commentators quoted by the defendant's advocate; but he would, in due time, state his grounds, and show the matter charged is

actually a libel ;—that he is far from intending to screen magistrates, when complaints are made against them. Should the defendant prove the truth of what is stated in the Memorial, yet he (the Fiscal) should consider it to be a libel. This he would show when the proper time arrived ; and he also deemed himself aggrieved by the decree of the Court below, imposing a restraint on the examination of witnesses.

Mr. Advocate *Brand*, who appeared for Mr. Edwards, addressed the Court in substance as follows :—

When I consider this case, the defence of which is placed in my hands, if I earnestly reflect on the situation in which I am placed, I must freely avow that I enter upon it with some reluctance.

It is not a case of an individual against an individual, which I am now to defend—No ; it is a case of much more importance. I see placed before me worthy judges, to whose jurisdiction I, as a practitioner, belong ; under whose direct control I am placed ; and it is before them that this case must be defended—because the defendant was punished *for contempt of this Court*.

This consideration alone makes my situation indeed difficult and important to me, and I would backwardly proceed to the defence of the same, did not this worshipful Court inspire me with some confidence.—It was not of my own free choice that I took this case into hand, but a decree of the Court which ordered me to it—an order which, with the greatest readiness, I obeyed ; not alone because I felt myself greatly honored therewith, but because I make it my firm duty, always with readiness and good will, to obey the commands of my judges. Hence I presume, that I may not alone claim your indulgence, but also pray that you will excuse any expression which may, perhaps, be inconsiderately used in this my defence.

If we resume the sentence of the Commissioners of the Court, bearing date 16th February last, we find that the defendant was condemned to immediate imprisonment of one month, for his behaviour in Court, and for contemning the authority of the Judges. Against this sentence the defendant instantly notified an appeal to this Court, and, notwithstanding that appeal, the same was immediately carried into execution, against the proviso of Art. 131 of the Crown Trial.

Never was it the intention of the defendant to insult the Commissioners, or to scorn their authority. On the contrary, as well before as afterwards the defendant addressed the Court with the greatest respect and reverence. It is with perfect security we appeal to the worshipful Commissioners who sat at the first instance, to say, whether the defendant, carried away by passion in the heat of his defence, while urging his grievances, and propounding his arguments, whether, we say, the defendant did not instantly collect himself when checked by them? When you corrected him, did he not constantly, with the greatest submission and reverence, apologise for his behaviour? And, when he finally observed, that he could not master his warmth, did he not then declare, he preferred not proceeding in his defence rather than appear not to honor the Judges.—That all this did actually take place the Commissioners will not deny. And this being true, where then did the defendant insult the Judge? Where did he condemn his authority?—No; let us repeat our declaration, that the defendant honors and reveres this Worshipful Court. It is true, that the defendant, in the heat of his defence, did not spare the nominal prosecutor, nor treat him very ceremoniously; but it is also true that he never touched a point in which every individual, as the defender of his own right—every practitioner, as the defender of widows and orphans—each of you Judges, as the maintainers of a strict and impartial trial, must not feel the greatest interest.

When we consider the situation of His Majesty's Fiscal, as a prosecutor, and that of the appellant, as a defendant; when we remember what happened between them before the commencement of the trial; when we also consider the nature of the principal prosecution, and the manner in which it was instituted; then, Worshipful Judges, every upright and unprejudiced Judge will acknowledge, that the behaviour of the defendant to the prosecutor is altogether pardonable.

We see the defendant in the Fiscal's office, with all decency and propriety remonstrating with the prosecutor against the illegality of the principal prosecution; we also recall to our memories the treatment which the defendant there suffered; and we then ask whether it is unpardonable in the defendant to feel some antipathy towards the prosecutor?

This passed. The case was then brought under the cognizance of the Commissioners;—but in what manner? Certainly not according to the Crown Trial, to the forms of which surely everyone, whether a magistrate or an individual, must submit.—No, the Fiscal, on the contrary, departed from the Crown Trial, and thereby exposed the defendant to sufferings from which he would have been free, had the Fiscal adhered to the provisions of the Crown Trial.

The defendant being on the point of his departure to England, applied to the Fiscal that his pass might be signed;—this was refused, because the Fiscal meditates a criminal prosecution against him. Very naturally the defendant now anxiously expected that the intended prosecution should speedily be terminated, that he might proceed on his voyage;—every obstacle was, however, thrown in his way. The 33rd Art. of the Crown Trial directs, that all criminal prosecutions shall begin within eight days after the decree of a personal appearance has been granted; and, notwithstanding this positive order of the legislature, the prosecutor brought on the case four or five days later.

Can the Court find it unpardonable in the defendant exposing his grievances on that point—for conduct, becoming a good and dutiful citizen? And is he still to be condemned for a warmth which carried him away when he reflected on this unequitable, this illegal act? He who thereby, in so unjustifiable a manner, was stopped in his departure to England; he who to his great grief saw a case prolonged, which might long ago have been brought to a conclusion? No, Worshipful Judges, there is more equity in your bosoms.

The Fiscal exculpates himself with the excuse, that he computes the fixed eight days from the day on which he received the decree of the Court. But we have only to say, that where a special law is plain, and says the eight days shall be computed from the date on which the decree was passed, the Fiscal is not authorized to explain or warp the same to suit his own convenience.

But let us proceed. The 78th Article of the Crown Trial directs the prosecutor to summon all the witnesses—both his own and those on behalf of the defendants—on the day on which the same shall commence. Now, did the Fiscal act

accordingly ? Not in the least. This unwarrantable, this wilful neglect of the Fiscal, was intended to vex the defendant.

The prosecutor regularly summons his own witnesses on the day of the trial, he enables himself completely to accuse the defendant of a crime ; and he deprives that defendant of his right of defence. Where, Worshipful Judges, did you ever hear that the prosecutor should be arrayed with more privileges in accusing, than a defendant, in defending his rights ? Certainly this is the first example you ever saw before you ! This neglect of the prosecutor tended to cross the defendant in his defence ; and who we ask with the greatest confidence—who could be cool in exposing such grievances to the Judges—who would not feel a fire kindle in his breast, when the favors and privileges which the special laws of his country granted to an accuser are violated by the prosecutor ? Yea, who would then punish a defendant for having warmly represented the truth, not covered with flattery and inventions, but in its nakedness ! this would be a hardship which would bear too heavily upon any defendant.

The Fiscal, to exculpate himself from the wilful neglect, states to the Court, that he did not summon the witnesses on behalf of the defendant because he prayed the Court to diminish the number of his witnesses. We will for a moment consent that the prosecutor had a good reason for that prayer : but this is incontrovertibly true, that the prosecutor had no right to deviate from the plain and evident words and meaning of the law. As long as the Judge did not give his decided opinion, so long was it the duty of the prosecutor to obey those laws, the maintenance whereof is placed in his hands.

Mr. Brand then adverted to alterations which had been made in the wording of the memorial, and contended that the Fiscal was bound by the Crown Trial to adhere strictly, in drawing up an indictment, to the wording of any document on which he might found a charge. He then said, that having laid before the Court the principal circumstances which had taken place previously to 16th ult., he put it to them whether there were not enough developed to fill every honest heart with indignation. He calculated with some confidence, on the exculpation of his client ; because he had only exercised the

right which every British subject had to petition the King and Parliament, in a legal and constitutional manner : to support this he referred to Blackstone, vol. I, chap. i, p. 143, in which it is laid down that all prosecutions for such petitioning are illegal. He contended, that if all the circumstances attending this prosecution were taken into the account, it must appear obvious that the object of the prosecutor was to persecute his client, who had fearlessly come forward in spite of all menaces, to probe the matter to the bottom. The language he had used towards the Fiscal might be considered harsh, it was not the less deserving ; but from any charge of contemning the Court he was wholly free.

If the defendant had been intemperate, it might be urged in extenuation that his provocation was great, and that like most men, he had not always command over his passions, besides, however insulting the language of the defendant to the Fiscal, he had always his remedy at law ; and the defendant having amply apologised to the Court, ought, Mr. Brand contended, to have screened him from such exemplary punishment as was inflicted. Mr. Brand cited professor Lusac's Notes on Wolff's Institutions, to prove that a man under the influence of a strong feeling, like a child, could not control his passions. He concluded by submitting to the Court that, for the reasons he had urged, his client was entitled to be discharged from confinement ; and, if the Fiscal chose, it was open to him to bring an action for any injury he might conceive he had sustained.

The *Fiscal* replied, that the Court had heard the defendant's advocate, Mr. Brand, admit that his client was in the wrong, but which he attempted to make good by giving it another colour :—he (Mr. Brand) said that the defendant, in consequence of the observations of the Court below, retracted what he had said, and apologized for it. He also pretends that the defendant had been actuated by a sense of the treatment he had received from the Fiscal in his office ; but the Fiscal did not offer any provocation to the defendant in his office. It was his bounden duty to prosecute the defendant, and he had no power to deviate from his duty ; he could therefore not sign the certificate, which was the preliminary step to apply for a passport to leave the Colony ; and he informed him that the reason why he could not sign that certificate was, that the

memorial of Mr. Cooke was handed over to him for prosecution, when the defendant, in a loud tone of voice, exclaimed, that he should wish to know who intercepted that memorial; and that if the Fiscal had done it he would prosecute him:—that he (the Fiscal) had then observed to him that it would be better to speak on this subject in the Court. This is the provocation so much contended upon by the defendant's advocate, and which had induced him to retaliate, instead of making his complaint in a proper manner.

At the next meeting of the Court below, the defendant did not admit he was wrong, but repeated what he had said on the 16th. And what was his conduct on the second hearing, with respect even to the Court?—the Court having observed to him, that if he had any charge to prefer against the Fiscal or Mr. Blair, he must do it in a regular manner, he replied,—“I am aware when and how to seek for justice; but know better than to assail a snake in its own hiding place.” The place which he alluded to was this Court-room, and the Court are those that conceal the snake. The Fiscal then contended, at some length, that he could not agree with the defendant's advocate, that he was irregular in bringing forward this prosecution. He had, in fact, no option. The Memorial was handed over to him, and it was his duty to prosecute.

The Court, after deliberating for a short time, confirmed the sentences appealed from; and condemned the first defendant, Mr. Cooke, in all prior expences; and fixed the costs on this appeal at Fifteen Rixdollars.

The Fiscal and the defendants severally appealed against the determination of the Court, in refusing to go into the examination of any witnesses whatever.

Friday, March 26, 1824.

The Full Court having, on the 26th February, refused to hear witnesses either in support of or against the allegations contained in the Memorial which was the subject of the suit;—The Fiscal and the defendant severally appealed to the Court of Appeals, which, after some lapse of time, rejected the case, and referred it back to the Court below to try the merits of the alleged libel.

The decision of the Court of Appeals was read, and the parties were informed that the case was to proceed.

The *Fiscal* submitted to the Court, that he wished to call two witnesses, (Mr. J. H. Whiston and Mr. G. Thompson,) whose names did not appear in the list already exhibited, he having only learnt of the publication of the Memorial to them on the 26th of February.

By their evidence he intended to prove that the Memorial had been published previously to its transmission to the Governor by Mr. Edwards. The defendants having already admitted sending the duplicate of the Memorial to His Excellency was sufficient proof for him of its publication ; but the evidence of the two witnesses he had named, although he did not deem it of much consequence to establish the fact, would serve more fully to substantiate it.

Mr. Edwards exclaimed—"Another misrepresentation ! I am surprized," continued he, "to see the *Fiscal* recur to his former system of mis-stating facts. I deny having ever admitted that I sent the Memorial to Lord Charles Somerset. When I was interrogated by the Court, I acknowledged no more than having sent it to the Lords of the Treasury ; therefore this pretended admission by the *Fiscal* is false ; and I beg the Secretary may enter on the Record that this is my opinion. Let the *Fiscal*, however, bring forward these witnesses—I do not object to their examination."

Advocate *Cloete*, for Mr. Cooke, called the attention of the Court, to the train of informal and illegal proceedings which the *Fiscal* had been guilty of during the whole course of this trial ; and said that the present application was another striking instance of that disregard to rules and orders which substantially secure the ends of justice. The *Fiscal* is aware that by the 38th and 41st Articles of the Crown Trial, the names of the whole of the witnesses required during the prosecution must be delivered in at the first opening of the trial, and that none others may afterwards be allowed, except for the most urgent reasons. The *Fiscal* is aware that both parties appealed from the decree of the Court, rejecting the production of any witnesses, even of those whom the *Fiscal* had thought necessary, in the first instance, in support of his action. That decree stands confirmed by the Full Court, and by that of

the Court of Appeals ; and, in face of the standing rules of the Courts of Law, and of the express decree in this particular case, the present application is made. The Fiscal moreover admits that he only heard of those witnesses on the 26th of February ; they could not, therefore, be of so much consequence as to tend to support an action that had been brought on the 16th of that month, although it appears rather late now to think of the necessity, in an action for libel, of proving its publication at a stage of the proceedings when final judgment is already expected by the parties. But the acknowledgment in the prayer of the Fiscal betrays the impossibility of his request being attended to—for he admits that these witnesses are not strictly wanted by him, while the 41st Article of the Crown Trial forbids any being heard, in an after stage of the proceedings, except on the most weighty considerations ; and should those now named by the Fiscal still be necessary to prove any publicity, the defendants would be under the necessity of producing others to prove the contrary :—upon these grounds he (Mr. Cloete) submitted, that the prayer of the Fiscal should be dismissed.

The Court was then cleared for deliberation, in which it was for a considerable time engaged. On our re-admission, we found the sentence of the Court to be—That the application of the Fiscal was rejected ; on the ground, that during the course of this prosecution no new or unforeseen facts had been brought forward, which could in any way warrant the introduction of new witnesses : and decrees all further investigation of this case to be at an end. Releases the defendants from further personal appearance : and wholly *acquits* them of the charges contained in the indictment.

Mr. Edwards said—“ In one stage of this investigation, when I was objecting to the conduct of the Fiscal, your Worships told me, that if he had done wrong in prosecuting me, or in intercepting the Memorial, I was as much at liberty to prosecute him as he to prosecute me. You have now declared that this action is groundless :—I would therefore ask where is my remedy for all the persecution that has been heaped upon me ;—for having been sent to prison ;—for having been held up as a criminal by the Fiscal ; and for having been insulted, by a threat in the indictment, of suffering corporal

punishment,"—when he was interrupted by the Court, who said they had now discharged their duties, and if Mr. Edwards felt aggrieved, he could apply to any authority he thought fit for redress.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 27th March 1824.

MY LORD,—I consider it desirable to call your Lordship's attention to the present state of the arrangements which are in progress for preparing proper Individuals to fill up the situations which may fall vacant in the Dutch Church at the Cape of Good Hope.

Including the Reverend Doctor Thom, there are, as I understand, four Clergymen of the Church of Scotland now officiating in the Dutch Churches. Two more, the Reverend Messrs. Fraser, and Sutherland, are now completing their qualifications at some University in Holland; a Third, Mr. Morgan, will be ready to proceed to that Country in the Month of May of the ensuing year, and I assume that all three, but certainly the two first, will have entered upon their Pastoral functions about the commencement of the year 1826.

Having recently, however, received an application in favor of another Clergyman, Mr. Cassey, who would be ready to proceed to Holland immediately, I have thought it desirable before I engage his Services to ascertain from your Lordship whether the state of the Dutch Church will enable your Lordship to appoint him to a Clerical situation, and whether it will be desirable to hold out encouragement to any additional number of Clergymen to proceed to the Cape of Good Hope.

I have &c.

(Signed) BATHURST.

[Copy.]

Letter from MR. J. G. BRINK to MR. LANCELOT COOKE.

CAPE TOWN, *March 27th 1824.*

SIR,—I am directed by the Committee appointed by Warrant of His Excellency the Governor of the 10th Instant “for the purpose of inquiring into and reporting upon certain charges preferred by you against Charles Blair Esquire Collector of Customs, contained in a Memorial addressed to the Lords Commissioners of His Majesty’s Treasury,” to acquaint you that the said Committee will meet in the Committee Room of the Court of Justice on Monday next the 29th Instant at 11 o’clock in the forenoon, at which hour I am further directed to request your attendance. I have &c.

(Signed) J. G. BRINK, Secretary.

[Office Copy.]

Letter from EARL BATHURST to LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, *28th March 1824.*

MY LORD,—I have the honor to acknowledge the receipt of your Lordship’s Dispatch of the 26th of January last enclosing additional lists of appointments which you have conferred on various Individuals, and of increased Salaries which you have granted to various Civil Servants of your Lordship’s Government; and I feel myself under the necessity of acquainting your Lordship that if any encrease be made in future in the Salaries of Civil Servants or any additional appointments made without the previous sanction of His Majesty’s Government, the Commissioners of Colonial Audit will be directed to surcharge such excess of Expenditure. I have &c.

(Signed) BATHURST.

[Copy.]

Extracts from a Letter from LIEUTENANT COLONEL SCOTT *to*
LORD CHARLES SOMERSET.

GRAHAM'S TOWN, 28th March 1824.

On referring to the Map of the District of Albany a very great extent of Country lies open, having only one Military Post (Fort Willshire) in front, on a line extending nearly 180 miles long, and in many parts 50 broad.

The conclusion of the Caffre War (1819) with the Territory then gained (by the Treaty) beyond the Fish River, rendered all the former line of posts on that river (with the exception of the upper Caffre drift) useless, as they no longer covered the front, and they could not in a Military point of view be considered as a line of observation.

The habits of the Caffers are well known to your Lordship, their skulking in the woods, and wary manner of approach making them alone formidable, from surprizing the object of their attacks. Immense numbers may now approach Graham's Town unobserved, and the first intimation we can have is their presence on the Hills around the Town.

Patrolling under the present system is of little avail, the mountainous nature of the Country with their sides clothed with Bush facilitates the concealment of these people, to which their color materially contributes. Armed parties may and have passed close to numbers of them without discovering them. As an instance, I was visiting Fort Beaufort, when some Caffres were reported approaching the Post, I sent out instantly a Cavalry Patrole I had brought with me, and I saw them pass within 20 yards of where we had seen the Caffres conceal themselves. As soon as the Cavalry had gone by, they arose and proved to be 16 or 17 Caffre Women bringing Caffre Corn to barter, whom, after cautioning them of the danger of entering the Colony, I sent back to their Kraals. Some Caffre men were observed skulking on the top of the distant mountains.

To repress the incursions of these Savages, which the very exposed line of the Country offers the temptation of entering, I beg leave to propose to your Lordship to form a new line of Posts on the present frontier Boundary, and with the regula-

tions for patrolling, which I beg leave to recommend may be adopted, I think I may promise security to the Settler and detection to the Marauder, should he then dare to enter the Colony.

My ideas on patrolling are, that the Patroles should move from One Post to the next, crossing each other, sleeping at the Post they arrive at, and returning the following day. The men would thus lay comfortably at night, free from Damps and cold, be well refreshed for their return, and all the posts at night would be of the required strength, and when any extraordinary vigilance was required the patroles might then remain out for 3 or 4 days, crossing each other.

The Hours of starting as well as the Road to be taken should vary, that the Caffres might be always uncertain of these movements. The duty thus done, with proper attention on the part of the Officers, would ensure in a little while tranquillity to the Settlers, and strike such Terror into our savage neighbours that they would be afraid to enter the Colony, and Cattle Stealing and murders would I should conceive soon cease altogether.

[Copy.]

Letter from MR. LANCELOT COOKE to MR. J. G. BRINK.

CAPE TOWN, 28th March 1824.

SIR,—In answer to your letter of yesterday's date, I beg to acquaint you for the information of the Gentlemen composing the Committee appointed by His Excellency the Governor, that I should always feel most happy to attend upon any of them individually or collectively; but if my attendance to-morrow is intended to obtain from me any information respecting the mal-practices committed by Mr. Blair in the distribution and charge of prize negroes committed to his care, I must beg leave most decidedly to object entering upon these informations, unless I have the certainty that the examination of the witnesses which I should produce will be carried on in a manner likely to promote the ends of Substantial Justice, by allowing me the aid of such Counsel as I might require, and

subjecting the Witnesses to cross-examination; as the Gentlemen of this Committee must be well aware of the difficulties I shall have to contend with to elicit the truth from persons unwilling and partly interested in withholding these malpractices. I have &c.

(Signed) LANCELOT COOKE.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 29th March 1824.

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's dispatch of the 18th October last enclosing, in pursuance of my instruction of the 31st of March last a Statement of an Account between the Commissariat Department and Mr. Thomas Wilson's party, together with copies of a correspondence relative to that Individual; and as I notice among these papers an application which has recently been addressed to your Lordship by Mr. Wilson requiring that the Title deeds of the grants amounting to ten thousand acres of land, upon which his party were located in the district of Albany, should be forwarded to him in London, I consider it necessary to transmit for your Lordship's information copies of the correspondence which has passed between him and this department upon that particular point.

Your Lordship will remark that Mr. Wilson has claimed these Grants upon the ground that the Reverend Mr. Boardman has been acting as his Agent, during his absence from the Settlement, and that consequently his non-residence cannot warrant their forfeiture; your Lordship will also observe that Mr. Wilson has been informed in answer to this application, that the lands in question would not be resumed by the Crown, provided that he should prove to the satisfaction of your Lordship's Government that the Reverend Mr. Boardman has in reality acted in the capacity of Mr. Wilson's Agent.

Upon the principle thus laid down, your Lordship will therefore be guided in deciding on Mr. Wilson's Claim; But as it appears by the documents which accompanied your

Lordship's dispatch that Mr. Wilson merely proceeded to the spot assigned for the location of his party, and that after having immediately abandoned them he did not return and contribute by his personal exertions to promote the establishment of his party, your Lordship will consider yourself authorised to require the most satisfactory proof that the Reverend Mr. Boardman has acted as the constituted agent of Mr. Wilson ; and before any grant is made out to the latter, your Lordship will take care that the interests of such Individuals belonging to Mr. Wilson's party as have claims upon him for lands, be properly secured. I have &c.

(Signed) BATHURST.

[Copy.]

*Report of MESSRS. TRUTER, KEKEWICH, and NAPIER to
LORD CHARLES SOMERSET.*

CAPE TOWN, *March 29th 1824.*

MY LORD,—May it please your Lordship, We the underwritten, in obedience to your Lordship's Warrant which bears date the 10th instant, commanding us to examine into the charges of corruption contained in a certain Memorial of Mr. L. Cooke, addressed to the Right Honorable the Lords of the Treasury, relative to the conduct of Charles Blair Esquire Collector of His Majesty's Customs in this Port, in the distribution of Prize Negro Apprentices, and to report to your Lordship distinctly thereon, beg leave to lay before your Lordship the proceedings hereunto annexed, and respectfully report to your Lordship :

That Mr. L. Cooke was by Letter bearing date the 27th instant requested to attend before us, to which Letter we this day received an answer dated 28th instant, in which Mr. Cooke decidedly objected to give any information, or to bring forward any Witnesses to corroborate the charges of mal-Practices alledged to have been committed by Mr. Blair in the distribution and charge of Prize Negroes committed to his care, unless he (Mr. Cooke) were allowed the aid of such Counsel as

he might require, and also the power of cross-examining the Witnesses, as will more fully appear by reference to annexure G. That having assembled on the day following (this 29th instant) Mr. L. Cooke appeared personally before us, and being apprized that he would now have an opportunity of establishing the Charges of Corruption contained in his Memorial against Mr. Blair, refused so to do, or to offer any proof of said charges on the ground that many of his witnesses were unwilling to come forward and speak the Truth, and that his letter (G) already contained his determination. That we could not assent to the conditions required in his said letter, as being contrary to the usage and practice of Courts of Inquiry, which do not sit in judgement, and also because His Majesty's Fiscal would become the ex officio prosecutor in case it should appear necessary to His Excellency to order a Criminal Prosecution against Mr. Blair. That Mr. L. Cooke then withdrew, and that thus circumstanced we are deprived of the means of strictly examining and inquiring into, or of recording in our Proceedings any conclusive opinion respecting the several Acts of corruption of which Mr. Blair stands accused in the Memorial of Mr. L. Cooke to the Right Honorable the Lords of the Treasury.

All which is humbly submitted.

(Signed) J. A. TRUTER,
G. KEKEWICH,
M. NAPIER.

[Copy.]

Letter from MR. J. INGRAM to the FISCAL DENYSSSEN.

ZONNE BLOEM, 29th March 1824.

SIR,—In answer to your respected favor of this date I have in reply to state, the 10th Article of my Agreement was by desire of several of those persons suggested to me as the best mode for bettering their condition and as compensation to me for the value of their services (which were exclusively mine), being under great responsibility to Government that they should not become a burthen to the Government of this Colony; and as a proof of the advantages the people derived from it,

two hundred and fifty of them have already availed themselves of it, which however has not been confined to the first month of their arrival, but has been acted on to this moment, with this difference, the first month they were not obliged to work for me, though fed and lodged by me, and to compensate me for the clothing, necessaries, maintenance of the sick, which I regret to say has been very numerous, and deaths, &c., &c., I was obliged to expend a considerable sum above that granted to me by Government, and I conceive the ratio of 300 R. D. for a Man, 200 R. D. for a woman, 150 R. D. for a child, but a fair compensation for the expenses, anxiety, and heavy responsibility I am under, when I am aware Mr. Moodie and several others charged 7 and 800 R. D. to individuals for their freedom. On this or any other subject or circumstance connected with my people I shall at all times feel pleasure in giving you and H.M. Government every information in the power of Sir, your &c.

(Signed) J. INGRAM.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 30th March 1824.

MY LORD,—I have recently received a Memorial addressed to His Majesty by Thomas Dyball praying to be relieved from the penalty which he states that he has incurred by the non-performance of a Contract entered into with your Lordship's Government: and as I perceive nothing in the case of this Individual as represented by him which would authorise me in recommending to his Majesty to exempt his claim from the ordinary test of Law, I have suggested to him to reserve for the consideration of the Colonial Tribunals such grounds as he might have to offer in his defence, more particularly as it will hereafter be open to him to appeal in a regular manner to His Majesty in Council from the eventual decision of the Courts.

I have &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 31st March 1824.

MY LORD,—My instruction of the 9th of March 1822 required your Lordship to transmit to me annually for His Majesty's information certain Returns according to printed directions inclosed in that instruction; and I had the honor to signify to your Lordship His Majesty's Commands to the same effect in the month of April of last year.

On the 6th of September following I received from your Lordship a series of those returns for the year 1821, and these are the only documents of that nature which have as yet reached me.

Under these circumstances, I am under the necessity of renewing to your Lordship His Majesty's Commands signified to you in my instruction of the 9th of March 1822, and of desiring that your Lordship will lose no time in transmitting to me a complete series of the Returns in question for the years 1822 and 1823, according to the directions contained in the accompanying printed books which you will take care to return to my Office in the same state of arrangement in which you will receive them. I have &c.

(Signed) BATHURST.

[Copy.]

Statement of MAJOR SOMERSET *to the* COMMISSIONERS OF ENQUIRY.

March 1824.

I consider the best and only measure to be adopted for the defence of the Frontier, is that of constant patrols of Cavalry and continually beating the Bush with Infantry. For this purpose I have placed a strong detachment of Cape Infantry under an experienced officer at Kaffer's Drift, and another at Hermanus Kraal, and it is my intention immediately to place a post in the centre, between Hermanus Kraal and Kaffers

Drift, these Detachments have constant Patroles beating the Bush day and night without intermission.

The Patroles of Cavalry should be out at all times, patrolling on both banks of the Fish River, the Cavalry not on Patrole should remain at Head Quarters, to enable them to be kept in the most efficient state, under the immediate eye of the commanding officer, ready to relieve the Patroles that may be out, one Patrole should go out as the other comes in.

I object to Posts of Cavalry being placed in advance of the Fish River, they would be useless, unless there were Four Posts of One Hundred and fifty men each; the numerous casualties that daily occur, such as men employed as Officers' Servants, Servants to the Mess, Sick, Men employed as Butchers, Bakers, would render these Posts, according to our present force very inefficient for Patrolling, particularly as a force must always be retained for the defence of the Post.

The folly of numerous small Posts was sufficiently shewn in 1818 and 1819, when the Kaffers attacked and destroyed the one after the other, no Post being sufficiently strong to assist its neighbour.

If the Patroles are able to trace stolen Cattle into the Kaffer Country, they should immediately proceed into Kafferland to retake them, provided the strength of the Patrole is not less than One Hundred men, if less than that number information should be immediately sent to the Commandant of the Frontier, who should, without loss of time, send a sufficient force into Kafferland, to demand or rather retake the Cattle, as the Kaffers on the first intimation of your arrival immediately drive off all their Cattle; if they succeed in getting them off, they would rather submit to be destroyed than restore them, at least, in any quantity. The expediency of at all times retaking the Cattle cannot be doubted, but the attempt should never be made under One Hundred Men who of course must be Cavalry. The grand object to be attained is to have every Soldier employed in the front effective, which is only to be done by the plan I now pursue of sending my Patroles out with Provisions for four or six days, never permitting them to remain Two Nights in the same spot. When I desire to keep out a Patrole for a longer period, I have only to send provisions to a certain point, and inform the Officer Commanding the Patrole, that he will find

provision for his patrol at that spot. It is also to be observed, that provisions can always be obtained by these Patrols, at the Posts of Kaffers Drift, Hermanus Kraal and Fort Willshire.

Were the Kaffers again to infest the Fish River Bush as in 1819, I should break up all the Posts of every description, and establish moveable camps, making the Troops live entirely in the Bush.

I consider it absolutely necessary that there should be the same force in reserve at Head Quarters, both of Cavalry and Infantry, as are employed Patrolling and beating the Bush, the labor and fatigue of this service is excessive, the constant exposure to the Scorching Sun during the day and to the cold Winds by Night, is very destructive to the health of the Men, and it becomes necessary frequently to relieve the Officers and Men employed on this arduous Duty. Experience has shewn that no Troops are so adapted for this service as the Cape Cavalry and Cape Infantry. I would therefore propose that the Troops of Cavalry should be of the following strength, viz. 75 Privates in each Troop, 65 mounted and 10 dismounted, allowing that number for Officers' Servants and casualties.

The Companies of Infantry should consist of 75 men each, allowing 10 men for Officers' Servants and casualties. Each Company of Infantry should have 30 Good Horses attached to it. It is of the utmost importance that a number of horses should be at each Post, to enable the Officer commanding there to mount a force on any alarm of Kaffers; by this means he is enabled to come on the Trace of them with Dispatch, and he may quickly assist, if necessary, the Infantry he may have out beating the Bush: half of the Infantry at each post are ordered to be at all times in the Bush.

The Infantry Horses should receive a Ration of 6 lbs. of corn each per day, and run at grass during the day in the neighbourhood of the Post. Sheds should be erected at each Post for these Horses, to stand in, at night. I particularly recommend that 30 horses should be attached to each Company of the Cape Infantry for the purpose above alluded to, unless the whole were made Cavalry, which might be a better expedient.

I consider that the Commandant on the Frontier should not be bound to establish any particular line of Posts, but the Orders for Beating the Bush should be strictly enforced, and

if the Commandant is active, the Frontier will be but little annoyed with Kaffers.

The Military Force employed in 1818 and 1819 was about 1700 men, besides upwards of 2000 Burghers; the present Force is barely 700 effective men. The Country was never more quiet than at the present moment.

It is almost needless to point out the advantage both to Officers and men, of keeping the reserve at Head Quarters, particularly as it enables Messes to be established; nothing is more fatal to a Regiment than the miserable habits both men and officers get into when detached as Out Posts, or in the Bush, but when brought into Head Quarters they become immediately restored to a state of Discipline, comfort and Respectability.

A true Copy of Major Somerset's Statement made in March 1824.

(Signed) JOHN GREGORY.

[South African Journal.]

The present State and Prospects of the English Emigrants in South Africa.

In our first Number we purposely avoided entering into any minute detail, or offering any decided opinion respecting the condition of the British Emigrants. Our reserve on a topic of such urgent interest, did not proceed from any indifference, assuredly, to the fate of our Countrymen, but from a determination to avoid all appearance of attempting to influence public opinion upon a subject under the immediate cognizance of His Majesty's Commissioners of Inquiry. This cause for our silence has now ceased. The Commissioners have closed their investigations at Graham's Town, and the Settlers, it may be presumed, have fully made known to them their present condition, and their future views and wishes. The public have now a right to know something of the matter; and it becomes our duty, as journalists, to discuss the subject candidly and deliberately, upon general grounds; and to afford whatever aid we can, to make it perfectly understood, before any new

arrangements are undertaken, either by the Government or by the Settlers themselves.

The real condition of the Settlers, has been a matter of considerable discussion in this Colony; not, we apprehend, because there can exist any essential difference of opinion in regard to it, but because of the inaptitude of most people to take comprehensive views, even of matters they have actually witnessed, and thereby misleading others, by talking in general terms, when they have only in their eye one particular class, or a few peculiar cases either of extreme calamity or of extraordinary success.—We think these causes of misapprehension may be easily avoided, and shall first speak of those Settlers who still remain on their Lands.

This class is now extremely reduced in numbers, the whole probably not exceeding a fourth part of those originally located. They consist principally of the heads of parties or divisions, and other persons who brought out some property, more or less, which they have expended in unavailing endeavours to establish themselves as farmers on their respective allotments.

Having reaped little or no return from the land they have cultivated for four successive seasons, and having been robbed by the Caffres of a considerable portion of the Cattle they had by great exertion collected, they are now, for the most part in a state of extreme poverty. Most of them have expended their whole resources, and are entirely destitute of the means of re-establishing themselves, even supposing the Rust and the Caffres were finally repressed. Their locations are insufficient in extent, often ill selected, and mortgaged besides for the price of the stores and provisions supplied by Government, to an amount frequently exceeding the intrinsic value of the property. Their industry has failed; their independence is destroyed; their hopes are disappointed; their spirits are flagging; and they are fast sinking into a state of degradation, indolence, destitution, and despair. Such do we consider to be the general condition of the Settlers who still remain on their allotments, and who depend upon the soil alone for their support. There are doubtless exceptions and distinguished ones, but these are sufficiently known in this Colony, and do not interfere with our general description.

The Emigrants who have abandoned their locations, consist of all ranks and classes, but more especially of Mechanics and Labourers. These, in general, have escaped the severe distress of their Countrymen in Albany. The Mechanics have resorted in great numbers to Cape Town, and to the principal Towns and Villages throughout the Colony ; and, having found good encouragement wherever they proved steady and industrious, they may be considered as having on the whole improved their condition and prospects by the Emigration. The Laborers who are working for hire, either in the Villages or among the Dutch Farmers, are also receiving high wages, so that both these classes are in a much more prosperous state than their Countrymen in the Zuureveld, are a valuable accession to the Colony, and are rising upwards in the scale of Society, whilst their former Masters are fast sinking to the bottom.

Besides the Mechanics and Laborers, &c. a few others of a superior class have found means, by various occupations, of gaining a livelihood. And some, who still cling to their locations, make a shift by having timber for sale, conveying goods to the shopkeepers of Graham's Town from Port Elizabeth and the Kowie in their waggons, and by other precarious occupations, to supply their families with the means of subsistence. But the original scheme of settling the Zuureveld has failed ; and all who remain on their lands, are either already reduced to great misery, or retrograding daily ; and, unless some speedy and effectual remedy is applied, the whole will be involved in total and irretrievable ruin, and the Colony entirely lose the benefit of the care and the capital that have been expended on this ill planned and ill conducted enterprise.

The importance of the objects aimed at by this Emigration, ought not to be undervalued or lost sight of. The most obvious of these were the engrafting of a British upon the Dutch population of this Colony, and the establishment of a steady barrier against the incursions of the Caffers. This latter effect was anticipated from a population agricultural and mechanical rather than pastoral, and unaffected by the hereditary animosity prevailing between the Caffers and the Frontier Boors. Had this first settlement proved successful, it would, moreover, have been merely the advanced wave of a flood of Emigrants, who were prepared to pour themselves into the

Colony ; but who, by its failure, have been diverted to other Countries. The advantages arising to the Cape from a steady influx of British Settlers, would have been immense. The free spirit which Englishmen inhale with their earliest sentiments, would have accompanied them, and diffused itself by degrees through the more apathetical and lucre loving Dutch, until it had leavened the whole mass, and communicated a public spirit, such as Britain is proud to acknowledge in all her legitimate offspring. The intimate connection between the Emigrants and their Mother Country, would have excited a more lively attention in England towards the Colony, and a more watchful regard in her Government to its interests. The English habits and more numerous wants of the Settlers would have been gradually communicated to the rest of the Inhabitants, and would have established a far more considerable and constant demand for English produce. The continual influx of free labourers would have compensated the Colony for the diminishing value of Slave labour, and have speedily rid us of that abomination, without expense, injustice, or danger ; whilst the enterprise and activity of the British Emigrants would have diffused themselves throughout the whole of our Colonial population, continually discovering new articles of produce, more profitable branches of industry, new channels of commerce, new resources against natural evils, and better remedies for artificial ones.

To enable the public to form some estimate of the amount of the claims which the Settlers have in equity, on the good faith or liberality of Government, as well as to throw out some hints to guide the course of future emigrations, it is not unimportant to inquire what would probably now have been the circumstances of the settlers if they had been left to follow their own plans, or the natural course of circumstances, when they were landed in the Colony.

If no projector had been allowed to interfere,—if the £50,000 voted by Parliament had been employed, as seems to have been the original intention of His Majesty's Ministers, merely in defraying the expense of the passages of the emigrants,—if the Colonial Government had placed them at once in every respect on a footing with the other inhabitants of the colony, there cannot be the least ground for doubt, that, instead of

becoming by their failure a beacon to deter others from approaching our shores, their success would have encouraged many thousands to follow them long ere this, without expense to the mother country and with great advantage to themselves and to the colony. For it should be here remarked that notwithstanding the failure of our crops, there has been hitherto no perceptible diminution in the rate of wages or in the demand for labor. If they had met with the encouragements usually given to agriculturists here, the heads of parties, and everyone who possessed means in any shape to the extent of two or three hundred pounds, or even less, would have obtained grants of four to six thousand acres of land. If their capitals were too limited for the cultivation of their grants to advantage, they would have been entitled, along with the other colonists, to a proportion of the loans from the Bank, to the amount of one-half of the estimated value of their grants. These mortgages would have rendered their lands saleable; and such as found their want of experience, or other circumstances operating against their prosperity, would have been enabled to employ their capital in occupations more conducive to their own interests, and of course to those of the community.

A great majority of the settlers, who were not possessed of capital sufficient to entitle to larger grants than 100 acres, until they relinquished the prejudices they had acquired in England regarding the value of lands in the colonies, in comparison with other descriptions of property, would most likely have turned their attention to agriculture, and have settled in the *Zuureveld*. And if the sums deposited by them as security for their embarkation, and their eventual settlement in the colony or in that district, had been returned to them as stipulated, to employ as they chose themselves, instead of being retained without their consent to be injudiciously expended on their account by Government,—if a more efficient system of defence had been constantly maintained to secure them from the incessant harassment and ruinous depredations of the *Caffres*,—and particularly if the local magistrates had been from the beginning men of popular talents and experience in civil affairs, instead of a succession of persons accustomed only to despotic rule,—and if their grants had been extended gradually as their means increased, many of them would have

succeeded in spite of rust, droughts, and deluges, as graziers,—and others as cultivators of green forage, and vegetables for the supply of Graham's Town and the frontier posts,—provided the military had been prohibited from competing with them at all or on unequal terms. But as it was, it was impossible that they could prosper; and it will be found that there is not one exception to the failure of those who adhered closely to the means pointed out by Government. If there are a few still who are not entirely ruined, they owe it to their more extensive resources. All have retrograded.

The mechanics were the first to perceive the contrast between the low profits derived from agricultural employments and the enormous wages offered in every part of the colony for mechanical labor. They found means to break through their engagements to their employers, relinquished their claim for lands, and resorted to the towns. The labourers soon followed them; and it may be said that few now remain but such as are involved in debt which they see no means of extricating themselves from, or have sunk capital in their lands, which they are loth to sacrifice entirely, or to forfeit those claims on the consideration of Government, which their having persevered so long in the prosecution of its views, entitles them to.

To ascertain how far it is probable, that part of the settlers who possessed capital to entitle them to grants of the usual extent, as well as the more successful of the settlers in the Zuureveld, might have succeeded under a different system, it is necessary to inquire into the circumstances of the inhabitants of the different parts of the colony in which they would settle; as it must be clear that without entire change of system, they could not be expected to compete on equal terms with the old colonists, who had been reared under the accumulated disadvantages of the system which is established.

The occupiers of lands at the Cape are all weighed down either by taxes and restrictive regulations, or the want of demand for their produce, caused in a great measure by the latter. But as these evils press in different degrees on the different classes of agriculturists, it is necessary to say something of each of these separately. There are a few observations, however, that are more or less applicable to the whole.

1st.—In regard to slave-labour:—although a particular

slave, from some superior qualification, may be productive to his owner ; (and it is impossible, so long as free servants are scarce, and consequently little under the controul of their employers, to carry on any agricultural establishment to advantage, without vesting a capital in that description of labour ;) yet, it is an unquestionable fact, that the colonists are suffering more or less in proportion as they are possessed of slaves,—or, in other words, are receiving a smaller return from their capital, than if it was otherwise invested. And there are few slave owners beyond the lines which surround Cape Town, who, after estimating the cost of their agricultural property, can say that they receive an adequate return from their capital. 2dly., Hottentot labour is, generally speaking, hired at a rate much below its real comparative value, a consequence of the very injurious restrictions which that race have to contend with. This circumstance, along with the higher rate of profit derived from the breeding of stock, accounts for the superior success of the graziers, in spite of a limited market, the useless and oppressive restrictions on the internal commerce of the Colony, and the monopolizing regulations of the Burgher Senate.

The Wine Growers have, either belonging to themselves, or upon loan, large capitals, sunk in slaves, buildings, vineyards, fustage, cattle, and pasture lands ; and are consequently enabled to live at a rate which might be considered by a stranger, who does not perceive their economy, to be extravagant. But if a very few, who have peculiar advantages, or make a superior description of wine, are excepted, they do not receive the average rate of profit on their capital, nor anything like it. Their early habits, and the impossibility of finding purchasers, are the principal causes of their perseverance, at the present low prices of their produce. They can, by means of a very large capital, pay their taxes and live, but that is all. If they do not encroach on their capital, it is only owing to an economy, and an attention to petty gains, which no English family, with half their means, would pretend for a moment to cope with them in.

The profits of the Corn Farmers of peain a moderate distance of the Cape market, are probabl grants what higher ; but the difference cannot be great, as 3, many nothing of moment,

except the transfer duty, (which to be sure is a serious obstacle in itself,) to prevent the flux and reflux of capital between these two employments.

The Stock Farmers on the Frontier, having acquired few wants, and consequently being less exposed to indirect taxation, and having almost an unlimited range of pasturage, are accumulating capital rapidly, wherever they are able to protect themselves from the depredations of the Bushmen and Caffers.

The inhabitants of the middle districts, prevented by the distance from the Cape market, and the prohibition of direct exportation from the ports nearest to them, from turning their attention to the production of grain,—depend either on the sale of their produce, of their cattle, or on their labour, and that of their Slaves and Hottentots, in cutting wood, tapping aloes, &c., for sale at Cape Town,—or in supplying the Stock Farmers with waggons, wine, spirits, fruits, and imported articles; and many of them therefore may be more properly designated as carriers than Farmers. Their pursuits are the most varied and least open to competition of any other, and indeed, under the existing system, it seems impossible that an Englishman can cope on a footing of equality with any of the classes that have been mentioned.

The want of a sufficient return from a small capital—his aversion to slaves—his want of the habits necessary for managing Slave or Hottentot labour with advantage—his dislike to the solitary independence of the Cattle Farmer—the want of a sufficient stimulus to exertion—his inexperience and want of skill in some instances, and his want of the rigid economy of his neighbours in all, would expose him to impositions and oppose obstacles to his prosperity on every side; nor does it appear that he could have had any reasonable prospect of competing on equal terms with the other Colonists, unless by the abolition of many of the restrictions and burdens of the Dutch system he had been enabled to introduce the more favourable one to which he had been accustomed from his youth.

The very peculiar state of society existing at the Cape, has been produced by the unnatural and injurious restrictions of the monopolizing system of the Dutch East India Company. Population in the interior has outrun the accumulation of

capital, and has pushed itself out beyond its means : and an almost total want of the capital employed between the producer, and the consumer, and exporter, have rendered agricultural pursuits more complicated and expensive. It is probable that if the Settlers had been left to themselves under such circumstances, that beyond the value of the grants which it is presumed they would have received from Government, and the labour they would by this time have fixed in buildings, &c. they would not have improved their circumstances ; but they would still have had their lands, would have been free from debt, and prepared now to take advantage of such beneficial changes as may take place in the prospects of their fellow Colonists.

Had that part of the emigration which would naturally have been induced to settle in Albany, been allowed to follow more freely its natural course, a number of small towns or villages would have probably arisen in convenient situations, from the tendency of men to crowd together for their common advantage and mutual support. A beneficial division of labour would have continued to exist, in place of every man becoming his own mason, carpenter, millwright, tanner, gardener, waggon-driver, &c.—as has long been the case among the Frontier Boors, and is now becoming the case among the Settlers. The mechanics would have resorted to the towns ; the husbandmen to the Country. The lands adjoining to the villages would have been cultivated as gardens, orchards, and cornfields,—the more distant or inaccessible would have been occupied chiefly as pasture farms. These towns would have thus formed each a nucleus of local trade—a depot of labour, implements, and other necessaries, which would have been supplied by the inhabitants for the provisions brought in by the farmers. They would also have furnished temporary accommodation to fresh emigrants ; while in the meantime an experienced class of back settlers would have arisen from among the more adventurous, who, resigning their improvement for the premiums offered by new comers, would have pioneered the march of civilization, by settling the more distant lands ; as is the case in America, and also, to a certain extent, among the Dutch Colonists of the Cape.

Had matters fallen into this train, in place of the emigrants

being bound like serfs to their locations by absurd regulations, (whether originating with the Home or the Colonial Government is immaterial,) it is not saying too much to suppose that the industrious mechanics and labourers would have accumulated considerable sums by this time, and that many of the others would have been in equally favourable circumstances with the Boors. For the natural progress of accumulation is more rapid than the artificial one in use ; but it would have been essential to it that they should, besides the support and encouragement of Government, have been left to manage their own affairs in their own way.

We come now to consider the causes of the failure of this scheme of emigration, which we conceive will be more readily understood from the foregoing desultory, though not irrelevant observations. Our object in briefly reviewing those causes, is to trace their progress more distinctly than we apprehend has yet been done, and to suggest the most natural and efficient remedies.

1. The first and most decided cause of failure, we apprehend, is the Population having preceded, instead of having followed the influx of Capital.

2. An arbitrary system of Government, and its natural consequences,—abuse of power by local functionaries, monopolies, restrictions, &c.

3. The vacillating and inefficient system pursued in regard to the Caffers.

4. The appearance of the *rust*, an unprecedented and till then almost unknown disease in the wheat crops.

We think these causes have been placed in their proper order, though perhaps not in the order most obvious to superficial observers. Capital and free Government are essential to the success of colonization. North America, from the possession of the latter chiefly, has far outstripped all other European Colonies. The Spanish and Portuguese Settlements, and the Cape of Good Hope, from the want of both, are yet in their infancy. In speaking of the Cape we intend no reflection on our existing authorities. They have, no doubt, considered it their duty to administer the Government as authorised by England, and as it devolved upon them from their predecessors. We ascribe neither praise nor blame to any individual, but we

cannot pass over a cause so influential without stating it frankly though not invidiously.

The constant exposure of the Settlers to Caffer incursions was, we conceive, the next cause most ruinous to the Settlement; not so much from the actual damage sustained as from the continual state of alarm and insecurity in which they were placed. The officers and troops on the frontier probably did their best; but, if the system of defence was fundamentally an erroneous and inefficient one, as we conceive it to have been, their utmost exertions could not have protected their unfortunate countrymen.

The Rust in the crops is the last and most notorious cause of failure. Its prevalence for four successive seasons, with peculiar virulence in the eastern districts, was very disastrous to the settlers, and was the more felt from the greater part of their capital being employed, unnecessarily and imprudently we think, in *the cultivation of wheat*.

We shall only add at present, that we conceive our countrymen in Albany to be generally under considerable misapprehension as to the fundamental causes of their failure,—attributing too much influence to the more obvious natural defects of the country, and dwelling too keenly perhaps on immediate occasions of irritation, while they overlook more remote and deep-rooted evils. But the worst of these are not, we trust, incapable of being remedied, when once clearly understood; and in our next Number we shall, therefore, endeavour to point out the best REMEDIES FOR THE RECOVERY OF THE SETTLERS.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 1st April 1824.

MY LORD,—I was yesterday honored with Your Lordship's dispatch of the 30th November last, transmitting to me a letter which had been addressed to Your Lordship's Department by desire of the Board of Ordnance enclosing a Minute by His Grace the Master General on the subject of certain charges

which it appeared by Major Holloway's communications to His Grace were intended to be brought against that Board.

In reply I have the Honor to state to Your Lordship that from the Capture of this Settlement to the present Time the Expenditure of Buildings for the Occupation of Troops, whether in the purchase, Erection, or Hire of them has invariably been borne by the British Government, those for the Cavalry and Infantry by the Military Chest and those for the Artillery by the Board of Ordnance. The Buildings for Military purposes erected at Graham's Town at the Expenditure of the Colony are solely for the Colonial Corps, the whole Expenditure of which is defrayed from the Colonial funds, and I had hoped that Major Holloway's Report would have been sufficiently explanatory on that Head. No Expenditure would have been gone into on account of the Ordnance without a previous reference to His Grace the Master General, had it been practicable to have procured any accommodation whatever for the Artillery in the mean time, but no means could be found, and the Kaffirs were at that time become very daring, and the promptest measures for accommodating the Troops were necessitated to ensure the public safety. It was calculated also that the Interest of the Sum expended would be saved by the discontinuance of Lodging Money to the Artillery Officers.

I have no reason to believe that the charge which the Erection of Barracks at Graham's Town will occasion to the Colonial Revenues will exceed the Estimate which accompanied Sir R. Donkin's Dispatch of the 16th February 1820. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 2nd April 1824.

MY DEAR LORD,—I beg leave to transmit to your Lordship a memorandum which has been put into my hands by the Earl of Clancarty with the view of drawing your Lordship's notice

to the different members of the family of Baron Oudtshoorn which is settled at the Cape, and which I have accordingly to recommend to your Lordship's favorable consideration.

I have &c.

(Signed) BATHURST.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 6th April 1824.

MY LORD,—I did myself the Honor to address your Lordship on the 27th February last with reference to a Statement professed to have been forwarded to the Lords Commissioners of His Majesty's Treasury by Mr. L. Cooke reflecting on the conduct of the Collector of Customs at this Port, Charles Blair Esquire, relative to the distribution of Prize Negroes. I have now the Honor to state that in consequence of a Letter addressed to me by Mr. Blair on 9th March last I appointed a Committee to assemble for the Investigation of the charges insinuated against Mr. Blair, consisting of the Chief Justice Sir John Truter, the Judge of the Vice Admiralty Court, George Kekewich Esqr., and the Commandant of the Garrison of Cape Town, Colonel Napier, an officer of the highest respectability of character, and issued my warrant to them empowering them to summon and examine upon Oath such persons as they considered could throw light upon the subject.

Your Lordship will perceive by the report of the Committee (copy of which I have the Honor to annex together with copies of all the Documents relative to the subject) that the man whose pen was so unrestrained in its accusations against Mr. Blair when addressing Persons 8000 miles distant from the possibility of enquiry or Elucidation, refused to give on his Oath on the spot, where every Truth could be sifted, any Information whatever.

Having referred to precedents in the issuing of Warrants to Committees of Enquiry in this Government, I find one issued by my Lord Caledon in 1810, which empowered the Committee

to commit, in case of refusal to give Evidence when called upon, but as I cannot trace any other Authority or any Instruction from Home on that subject, I have not ventured to exert such a Power, altho' Mr. Blair's anxiety to meet the Question has been strongly urged. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 9th April 1824.

MY LORD,—Having ascertained that the Statement made in a Communication addressed to me by the Collector and Comptroller of Customs at Simon's Town (copy of which I have the Honor to transmit to your Lordship) relative to the benefit that would arise to the Revenue by imposing a Wharfage duty at that Port is founded on just grounds, I have not hesitated to authorize the measure and to appoint a Wharf master at the moderate Salary of Seven Hundred and Twenty Rix-dollars per annum, who will also perform the Duties of Warehouse keeper, which I trust will meet your Lordship's fullest approbation, and I have to solicit that your Lordship will be pleased to notify your Sanction thereof to the Colonial Auditors. The Duties imposed will be similar to those levied at the Wharf in Table Bay which I am happy to say net Fifteen Thousand Rix-dollars per annum after discharging the Salaries of the officers employed in that Establishment.

I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure 1 in the above.]

CUSTOM HOUSE, SIMON'S TOWN, April 5th 1824.

SIR,—We take the liberty of communicating to you for the information of His Excellency the Governor, that having at the close of the last year maturely deliberated on the state of this Office, and on the means of gradually increasin

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Collection of Customs; it has been made apparent to us on comparing the result of Revenue and Expenditure which might attach from a Wharfage Duty being levied on all Exports and Imports, on the same footing as the Establishment in Cape Town, that a considerable Revenue would arise therefrom, independent of the additional aid and Security afforded to the Department.

By calculating the duties which would have been produced in the year 1823 as per annexure A, it has occurred to us, that if His Excellency could be pleased to take into His consideration the propriety and usefulness of the appointment of one Person discharging the duties of Wharf Master and attaching at the same time the duties of Storekeeper, it must necessarily add to the receipts, and greatly assist and improve the general management of the Custom House. The expediency of this addition is pointed out by referring to the Establishment at Cape Town, where a considerable Sum is received by a Wharf duty, which hitherto has not been levied and which in fact cannot be here without the appointment of an officer. As the Bonding System is now in force also, with the probability of an increase, it becomes highly necessary that more attention shall be paid to that branch so important to the merchants in the Winter Months during which Ships resort to this Bay ; by this also the Revenue will be increased.

Under these impressions we presume to present this our opinion to His Excellency. We have &c.

(Signed) FRANCIS DASHWOOD,
Collector Customs.
W. WILBERFORCE BIRD,
Comptroller Customs.

[Enclosure 2 in the above.]

Revenue which it is calculated would have arisen had the adoption of Wharf dues at Simon's Town taken place for the Year 1823.

Articles described in Tariff on which Duty is laid, as in Cape Town would have produced	Rds. 1333	4
Articles described on which Wharf duty is collected by Weight and size of Package	2000	0
	<hr/>	
Total Proceeds	Rds. 3333	4
Deduct Salary to one Clerk at Rds. 70 per month	840	0
	<hr/>	
	Rds. 2493	4

Leaving this Sum applicable to the repairs of the Wharf and other contingencies.

[Original.]

Letter from the REVEREND DR. MANUEL to
R. WILMOT HORTON, ESQRE.

CHURCH STREET, STOKE NEWINGTON, April 9, 1824.

SIR,—I have the honor to transmit to you the Certificates of the Revd. Henry Sutherland, who arrived yesterday from Holland.

He is now in readiness to sail for the Cape of Good Hope, and waits for Earl Bathurst's authority to apply to the Colonial Agent for the £40 allowed by Government for Passage money, and £30 in advance of salary. I have &c.

(Signed) WILLIAM MANUEL.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 10th April 1824.

MY LORD,—The Reverend Henry Sutherland having attained a sufficient proficiency in the Dutch Language to qualify him for filling a Clerical Situation at the Cape of Good Hope, I have directed the Colonial Agent to issue to him the sum of Forty Pounds on account of the expence of his passage, together with the Sum of Thirty Pounds in advance of his Salary, and I have to desire that your Lordship will appoint this Gentleman to any of the Dutch Churches which may require his Services.

I have &c.

(Signed) BATHURST.

[Copy.]

Letter from MR. GEORGE GREIG *to* EARL BATHURST.

CAPE TOWN, 12th April 1824.

MY LORD,—Having recently established a newspaper in this colony, under the title of the *South African Commercial Advertiser*, I have the honor to transmit for your Lordship's perusal, one copy of the numbers yet published, 1 to 15 inclusive. At its commencement I should have conveyed it to your Lordship; but it occurred to me as fitting to send such a number as would enable your Lordship to judge fairly of its merits and tendency. It is perhaps hardly necessary to make any remark on its reception by the public here; but it may not be unworthy notice, that in the short space of three months its circulation has doubled; and but for the little facility afforded in its conveyance to the country districts, and being subject to a postage of 1 skilling (3d. sterling), or thirty-three per cent on its cost, for conveying it to any district out of Cape Town, there can be no doubt its circulation would be much more general.

by my'd your Lordship go as far as the inhabitants of the

colony, who are unanimous in their approval of the paper from one end to the other, I may indulge a hope that this paper (established under innumerable disadvantages), having fought its way by an even plain desire to benefit the colony, may be, as regards the postage, put on a footing with the *Cape Gazette*. Your Lordship will, I hope, allow me to remark, that everything connected with this establishment is attended with great expense, while the circulation of a newspaper must necessarily be very limited in a colony: these reasons, added to the fact that it causes no additional *expense* to the colonial government, will, I rest confident, have due weight with your Lordship. My previous knowledge of your Lordship's uniform desire to forward any plan which has for its object the bettering the condition of mankind, precludes the necessity of apologizing for thus troubling your Lordship. Satisfied that this subject will meet early attention, I have, &c.

(Signed) GEORGE GREIG,
Proprietor and Conductor of the
South African Commercial Advertiser.

[Copy.]

Memorial of MR. CHARLES FREDRIK LIESCHING.

To His Excellency the Right Honorable Lord C. H. Somerset
&c. &c.

The Memorial of Charles Liesching Humbly Sheweth

That your Excellency in consideration of the grounds set forth in his former Memorial may now be pleased to allow Memorialist to *continue* to practise in the line he has been brought up, viz. that of an Apothecary, Chemist and Druggist. And Memorialist as in duty bound shall ever pray &c.

(Signed) C. F. LIESCHING.

[Copy.]

Memorial of DR. JOHN LAING AND OTHERS.

To His Excellency the Right Honorable General Lord Charles Henry Somerset, one of His Majesty's most Honorable Privy Council, Colonel of His Majesty's 1st West India Regiment, Governor and Commander in Chief of His Majesty's Castle, Town and Settlement of the Cape of Good Hope, in South Africa, and of the Territories and dependencies thereof, and ordinary and Vice Admiral of the same, Commander of the Forces, &c., &c.

The Memorial of the undersigned Physicians, Surgeons, Apothecaries, Druggists and Chemists, regularly educated for the different branches of the Medical Profession and duly licensed to practise those different branches in this colony agreeable to the Proclamations of the 24th April, and the 18th August 1807, respectfully sheweth :

That having been informed by Dr. Barry, Colonial Medical Inspector, in a meeting convened by him for the purpose on the 21st Inst., that a Memorial has been presented by the Merchants and Traders of Cape Town to your Excellency for the revocation of the 5th Article of your Lordship's Proclamation of the 26th September 1823, we take the liberty after mature deliberation on the subject humbly to submit to your Excellency the following observations which we conceive will be beneficial to the Community.

As the welfare of the public is intrusted to the Paternal care of Government it is naturally expected that its health is of the first consideration.

Although it is to be wished that the Trade of this Colony may be favored as much as possible, yet it should be restricted where the Health and welfare of the Community are endangered.

The spirit of former proclamations issued by their Excellencies the Lieutenant Governor H. G. Gray and the Earl of Caledon on the 24th of April and 18th August 1807 affords throughout ample proofs that their Excellencies were aware by necessity of restricting the Sale of Medicines to Profes-

sional Men. They enforced regulations for the purpose whereby in Article 7th of the Proclamation 24th April 1807 and by the Proclamation of August 1807 the retail of Medicines by any other person than regularly educated and licenced Members of the Medical Profession was absolutely prohibited.

These regulations having been enforced for Seventeen years the Merchants and Traders could not find themselves aggrieved by your Excellency's Proclamation of the 26th September 1823, as their stock of Medicines on hand must either be Seventeen years old, or imported lately with the idea of retailing them contrary to former Proclamations.

Besides the Merchants and Traders do not confine themselves to the retailing and vending of Patent Medicines, but bring under this head in retail or in small proportions by Public Sales many Medicines not Patent, as Antimonial and Dover's Powders, Tartar Emetic, Calomel, Jalap, Rhubarb, &c., &c., the retail sale of which Medicines has from time immemorial been confined to the Apothecaries.

In the greater part of the continental States where the sale of Medicines and the Execution of the different Medical branches are regulated by the strictest laws, the sale and retailing of Medicines is solely confined to Professional Men.

The wise and beneficial regulations of Government for this purpose in this Colony cannot be equally extended to this Town and Drostdy Towns, where the public may enjoy Medical advice, and to the Country at large where the poor sufferer is deprived of, or at a great distance from it.

No objection can certainly be made to the wholesale of Medicines by Merchants and Traders in this Town after proper inspection, but the retailing of them at public Sales, or privately, by persons incompetent to judge of their effects, we humbly conceive to be incompatible with public welfare.

Were the indiscriminate Sale of Medicines allowed, a large quantity would be thrown upon the public by Retailers who would recommend them only to serve their private interests, and at public vendue where the Medicines would be purchased merely as Cheap Bargains by persons having no immediate occasion for, or knowledge of them.

These Medicines are bought at public Sales often by accident, or with the idea of the Purchaser administe

in his family, or of again retailing them, and the undersigned are unfortunately too often witnessing the melancholy proofs of their misapplication, for on the appearance of disease these remedies are often very improperly applied, proving detrimental, nay sometimes fatal to the sufferer, and at all events rendering the case difficult and obscure to the Practitioner if sent for.

It is not intended that the Community should be restricted in or prevented the use of Domestic Medicines if it wishes to resort to them in preference to Medical advice, but the exclusive Sale of Medicines by Professional Men is a matter of consequence, as it will of itself prevent, more or less, the improper use of them.

Your Memorialists must certainly agree with Sir John Truter that our present condition will not admit of equal regulations for the distant Country Districts as for Cape Town and the Country Villages; but they humbly conceive that if the Hawkers and Pedlars were obliged to limit their Sales to a certain distance from the Drostdy Town where a district Surgeon is established, and required to purchase their Medicines either from the regular Apothecaries in Cape Town or Country or the District Surgeon, by whom they could be properly informed of their uses, the public would be more guarded from danger and spurious Medicines.

Your Memorialists therefore pray that before rescinding the 5th Clause of your Lordship's Proclamation of 25th September 1823 your Excellency would be pleased to take their humble suggestions into consideration.

And as in duty bound, your Lordship's Memorialists will ever pray &c.

(Signed)

JOHN LAING, Ch.,

PALLAS & POLEMANN,

Druggists, Chemists & Apothecaries,

RICH. HEURTLEY, M.D. and Chirug.,

J. KNOCKERS VAN OOSTERZEE, Med. and

Art : Obst. Dr.,

H. MADER, M.D.,

H. B. VAN HORSTOK, M. and Art. Obst :

Dr.

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F. L. LIESCHING, M.D.,
F. C. VILLNAGEL, Apothecary,
C. L. W. LIESCHING, M.D.,
JAMES ABERCROMBIE, Surgeon,
F. ENGELS, Apothecary,
J. ATHERSTONE, Fellow of the Royal
College of Surgeons,
EDWD. ROBERTS, Ch.,
C. RIMROD, Apothecary,
M. MATTHIESSEN, Apothecary,
S. FRAENKEL,
SAMUEL BAILEY, M.C.S.

[Copy.]

Certificate of DR. F. L. LIESCHING.

CAPE TOWN, CAPE OF GOOD HOPE, *this 12th April 1824.*

I the undersigned Licensed Apothecary in this Colony, do hereby certify that Carel Fredrik Liesching has duly served with me his apprenticeship in the Branches of an Apothecary, Chemist and Druggist, during five successive years from 1st January 1814 to last of December 1818, that during the whole of the time he has conducted himself in a manner becoming a faithful apprentice, and has rendered himself so far capable that he (his abilities in the said branches entitling him to full confidence) has after that period, that is to say since January 1819, entered into partnership with me, and during a space of five years, up to the last of December 1823, has superintended the whole of the concern, entirely by himself, or with other words has been the acting Partner, in which capacity he has conducted himself to my entire satisfaction.

(Signed) F. L. LIESCHING.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 13th April 1824.

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's Dispatch under date of the 7th of July of last year transmitting for my consideration an estimate of the expence which would attend the projection of the Wharf at Simon's Town, a work which the Officer commanding His Majesty's Ships on the Cape Station had represented as necessary. Your Lordship's Dispatch likewise contains an Estimate of the Expence which would be occasioned by the formation of a Reservoir of Water at Simon's Town ; and you anticipate that in consideration of the great convenience which both those works would afford to His Majesty's Naval Service would induce the Lords Commissioners of the Admiralty to instruct the Naval Department on that Station to contribute a portion of the estimated expence of those Works.

I regret, however, to acquaint your Lordship that upon communicating with the Board of Admiralty upon this subject, I have not found them prepared to agree to your Lordship's proposal ; and I therefore do not feel myself at liberty under present circumstances to recommend to His Majesty to sanction an expenditure, which the Revenues of the Settlement under your Lordship's Government would render it little able to bear exclusively. I have &c.

(Signed) BATHURST.

[Original.]*Letter from* MR. WILLIAM HART *to the* COMMISSIONERS OF ENQUIRY.

OLD MILL, GRAAFF REINET, 14th April 1824.

GENTLEMEN,—In reference to my letter of the 26th Ultimo I had the honor of stating to you the particulars under which I experienced severe and irrecoverable losses, while a resident in the District of Albany, the expenditure of the whole of the

little capital with which I embarked, and my total inability from these misfortunes of maintaining my numerous family, or of assembling it either in this Country or in England.

Thus situated, permit me Gentlemen to observe, that in consideration of the very liberal manner in which myself individually, and the Settlers in general have been treated by Government, I feel anxious to promote their views, as well as my own private interest, by contributing every effort to the firm Establishment of the new Colony. I am therefore desirous of settling the remainder of my family (from whom I am now painfully separated) in this Country, but which is placed out of my power, from want of the means of establishing myself in a comfortable home to which I could invite them.

Trusting then you will be pleased to consider my long services, and the distressing situation in which I am (as a husband and a parent) placed, without a prospect of ever again seeing my wife and the remainder of my Children, I humbly beg leave to solicit a grant of land, and the loan of a Capital for a few years, to enable me to recommence my farming operations, which, assisted by the trifling Income I possess, I think would be the means of attaining the object I have in view, namely, providing for, assembling, and establishing my family in this Country.

To conclude, I beg to mention, that not only myself, but also my family would now feel most grateful for your humane consideration of the before mentioned particulars, and, in apologizing for trespassing so long on your valuable time,

I have &c.

(Signed) WM. HART.

P.S. Destitute of the means of recommencing my farming operations from the want of a Capital, or of returning to England, a duty I owe to my absent wife and Children impels me, Gentlemen, to the liberty of asking you, whether, in the event of my not succeeding in my application to you for a Loan, anything can be done for me in this Country to enable me to give up my Half Pay as Cornet to them (which of the waggon train is only three shillings per diem), as they are much in want of it.

Allow me Gentlemen to add, that I have served my Country

as an Officer faithfully and honorably the best part of my Life, that I commanded a Regiment at the time I sold out, with the Rank of Brevet Lieut. Colonel, and that my conduct will bear the strictest scrutiny. Under these circumstances the only hope I have now left of again seeing those who are most dear to me, is, that you will humanely sympathize with my unfortunate Situation, and that you will be pleased to take it into your humane consideration.

[Copy.]

*Letter from the Landdrost of Albany to the
Colonial Secretary.*

GRAHAM'S TOWN, 16th April 1824.

SIR,—I have the Honor to transmit an Extract from my Day Book relative to a complaint preferred by the Burgher Adrian de Lange, of his having been required by the District Chaplain to pay a higher fee for the performance of the marriage Ceremony than that fixed by the Tariff, and as I am ignorant of the proper proceeding to be adopted in such a case, and whether or not it be subject to the cognizance of the Landdrost or of the Board of Landdrost and Heemraden, I have the Honor to request you will submit it to His Excellency the Governor. I have &c.

(Signed) HARRY RIVERS.

[Enclosure in the above.]

Extract from the Day Book of the Landdrost of Albany.

Monday, 5th April 1824.

Appeared Adrian de Lange, who states that yesterday (Sunday) he applied to the District Minister to be married, to whom he produced a Special Licence which he had procured from Cape Town for the purpose, but that Mr. Geary refused to perform the Ceremony unless he was paid 24 Rds., contrary to the Regulations for the guidance of the District Minister.

Complainant further states that he offered Mr. Geary a piece

of 50 Rds. which he refused saying " he could not give change," he then tendered him a piece of 20 Rds. and informed him that he would bring 4 Rds. immediately afterwards, which Mr. Geary likewise refused, saying he would not perform the Ceremony until he had paid him the exact Sum of 24 Rds., in consequence of which he was compelled to go about the town in order to borrow the sum demanded of him. Complainant adds that the ceremony was performed in Mr. Geary's house.

A true extract.

(Signed) HARRY RIVERS.

[Copy.]

Letter from DR. JAMES BARRY to LORD CHARLES SOMERSET.

CAPE TOWN, April 16th 1824.

MY LORD,—With reference to Mr. Denyssen's letter of 7th Instant I beg leave to state that on the evening of the 6th I visited the Tronk in company with Mr. Kekewich, and in a Dungeon of that place found Jacob Elliot with his thigh fractured, without clothes, without a bed or pillows, or blankets, dirty in the extreme, without a single comfort, and in short exhibiting such a state of misery that if he had not been under the special protection of Providence he could not have survived.

Elliot declared to Mr. Kekewich and myself, in the presence of the prison keeper in attendance, (and who did not contradict the facts) that he had neither been furnished with medicine, nor proper diet, nor attendance, so much required in his helpless and painful state, but that *once* in 24 hours the keeper brought him a bucket of water and the common prison allowance, and also that until that very forenoon he had been lying on the bare ground, when he was laid upon a filthy stretcher.

I do here, my Lord, declare that I never witnessed any scene more truly appalling than this. Mr. Kekewich went out in disgust. I then asked the keeper if he had any more broken bones, he answered only one, who was a Prisoner from Robben Island.

I requested the keeper to conduct me to the patient, he did

so, and in one of the cells I found Jan Krier as near as possible in point of humane and proper treatment, in the same predicament with Elliot. This poor wretch had one of his legs fractured and the other carefully surrounded with a heavy chain. It is needless to enter into any further detail or description, but your Lordship will bring to your recollection, that when I had the honor to make a verbal communication respecting these sufferers immediately after my Inspection, I took the liberty of saying that if Your Excellency could afford the time to walk to the Tronk, you could satisfy yourself as to the facts and be convinced that I did not in the least exaggerate.

I yesterday read Mr. Denyssen's letter to Dr. Liesching Junr., who declared that both his Father and himself had made frequent reports and representations (which must now be lying in the Deputy Fiscal, Mr. Ryneveld's, office,) respecting the state of Elliot, expressing their anxious wishes to have him removed to Hospital, or even to have some clothes, bedding, &c., &c. procured for him, but in vain. They were told that the Government would not suffer any expenses to be incurred for Prisoners. Dr. Liesching expressed great pleasure on hearing that Your Excellency had been so good as to order the poor people into hospital, and was very anxious that you should see the official Reports concerning the case, which must now be on Mr. Ryneveld's Table in his office.

I have &c.

(Signed) JAMES BARRY.

[Original.]

Letter from Mr. THOMAS WILLSON to EARL BATHURST.

STOCKWELL, 19th April 1824.

MY LORD,—Having waited with the utmost patience for a reply from the Colonial Government at the Cape of Good Hope in respect to my claim upon His Majesty's Government, it is with reluctance that I feel myself again compelled to trouble your Lordship! if (as it appears to me) His Excellency the

Governor is under the Influence of views dissimilar to the advantages at first proposed to Heads of Parties, as originally promulgated by your Lordship, it is by no means my wish to embarrass the local policy : but surely it cannot be the intention of His Majesty's Government at home wholly to disregard claims so well founded as mine, after I have passed the ordeal of Trials replete with difficulty and overwhelming with expence ! It has occurred therefore to me, although doubtful as to the ultimate views of Government with regard to Colonizing another part of the world equally interesting in point of climate and geographical position, I allude to the Ionian Islands ; if His Majesty's Government would transfer to me a grant of Land in one of those Islands, with the appointment of Consul, or *any other* efficient situation, as a protection against reverses,—I would then wholly abandon my claims at the Cape ! and being now well experienced, few men I trust are better qualified to conduct such an enterprise. I would have no hesitation in undertaking to plant a number of industrious families, subject to similar stipulations as those under which I formerly engaged. Praying your Lordship to intimate which I formerly engaged. Praying your Lordship to intimate to me if such a proposal is acceptable to His Majesty's Government, I have &c.

(Signed) THOS. WILLSON.

[Copy.]

Memorial of the REVEREND WILLIAM GEARY, with LORD CHARLES SOMERSET'S Comments upon it.

GRAHAM'S TOWN, 19th April 1824.

To His Excellency Lord Charles Henry Somerset, Governor of His Majesty's Castle, Town and Settlement of the Cape of Good Hope, &c., &c., &c.

The Memorial of William Geary humbly sheweth

1st. That the attention of your Memorialist to South Africa, as a residence for himself, his wife and children was directed neither by necessity nor spontaneous choice, but originated

solely in consequence of invitations from her Grace the Duchess of Beaufort, to whom your Excellency had previously applied for a Clergyman to fill the important situation of a chaplaincy in Graham's Town.

Comment. The Duchess of Beaufort stated to me that she could recommend a Clergyman, for the Cape of Good Hope, of most exemplary conduct, character and learning, and I informed her of there being a learned Divine required for Graham's Town, in consequence of which Mr. Geary was recommended to Lord Bathurst by Her Grace.

2nd. That your Memorialist was induced to quit his now regretted Native Land, Relatives and Connections from the prospect of enjoying certain advantages which were held out to him, and which justified a hope that while he should be most usefully employed in the discharge of his clerical duties, his emoluments would not only have enabled him to live comfortably, but also to have left a provision for his family when Providence had terminated his official labours.

Comment. It is impossible to judge what Expectations a person of Mr. Geary's rapacious disposition formed for himself.

3rd. That your Memorialist in recording his disappointments feels them the more aggravated in reflecting that those inducements which brought him to Africa originated with your Excellency, and were thus detailed in a letter which your Excellency addressed to Her Grace the Duchess of Beaufort : " His (Memorialist's) Salary will be £350 Sterling, a House, (or allowance for one till the House is built) and an allowance of one Guinea per week, or £50 a year (I am not sure which) for the Military, besides I consider the Surplice fees will be considerable," while the expectations of your Memorialist also were naturally strengthened by the letter of Instructions from His Majesty's Noble Secretary of State for the British Colonies, which he presented to your Lordship on his arrival in this Colony ; for His Lordship declares in that Official Document that Memorialist, in addition to his salary, " was entitled to receive such *Surplice* fees as your Excellency might conceive to be fair and reasonable ; " but your Memorialist has been compelled by your Lordship's printed injunctions and regulations to marry even those persons in forma pauperis whose parents or themselves are in possession of Farms extending to

several thousand acres, well stocked with immense flocks and Herds ; a requisition which he conceives to be a real grievance and in direct opposition to the Instructions and wishes of Earl Bathurst.

Comment. In reply to the Duchess of Beaufort's enquiries with respect to the pecuniary Emoluments of the Chaplaincy at Graham's Town, I informed her that the salary was £350 Sterling per annum, with a House or allowance in lieu of one, and the Surplice Fees, which in the course of a year would probably amount to something considerable ; the term considerable appears in Mr. Geary's greedy eye to bear a very different construction from that which a sober, contented, really religious Divine would put upon it, and the manner in which he deports himself on the subject of Fees is best exemplified in Enclosure No. I, which shews that he employed his Clerk in the beginning of this month to entrap a couple to be married (and at an unlawful Hour of the day too) on the day previous to that, that they had purposed to be married, in order to squeeze the Fee out of them !!! and for which he charged them 24 Rds., 12 Rds. being the extreme amount of the Marriage Fee under any circumstances, and on the day following the Sitting of the Matrimonial Court the ceremony ought by the Colonial Regulations and by the Chaplain's Instructions to be performed gratis.

4th. That your Memorialist begs leave to remind your Excellency that those regulations before alluded to, enforcing the gratuitous performance of the Marriage and Baptismal Rites, are not confined to Sundays, but extend to the day subsequent to the Sitting of the Matrimonial Court. But as the affluent part of the Dutch population take as much advantage of those days of exemption from payment, as the poor, Memorialist considers the measure a virtual abolition of his Surplice fees ; and therefore prays that the power of exemption in all cases may be entrusted to the discretion and liberality of the Clergyman, for a reference to the Register Books, (which have already been submitted to His Majesty's Commissioners of Inquiry) will shew that Memorialist has been actuated by a very *opposite* principle to that of avarice in the exaction of his Surplice fees.

Comment. If Mr. Geary found the Emoluments of his

situation inadequate to his labors, or to his necessary expenditure, he had one of two measures to pursue: To resign his appointment, or to set forth in respectful terms to the Government, his necessary expences and his Labors, and compare them with the remuneration he received, but certainly not to rebel against regulations framed with the sole view of promoting that morality which it *ought* to be his first aim to establish amongst his Flock. I am sorry to add in reply to Mr. Geary's last Remark that *Avarice* appears the sole cause by which he is actuated.

5th. That your Memorialist on his arrival in Graham's Town fully expected (in conformity with your Excellency's declarations made to her Grace the Duchess of Beaufort) to have purchased every article of domestic consumption at a reasonable price, for your Lordship assured her Grace that "His (Memorialist's) expences would be very small," and again in the same Epistle there are the following remarkable words: "He may live very considerably cheaper indeed at Graham's Town than he could at this end of the Colony!" but your Memorialist begs leave to remind your Excellency in the first place, that the entire failure of three successive Harvests in this unfortunate District has rendered Bread (that essential Article of human subsistence) even up to this protracted period *three times* as high in price as it is now selling in England, and the price of that article in Cape Town (as published in the *Official Gazette*) will bear Memorialist out in his assertions, that from a more regular and extensive supply of Flour from foreign parts it has been much cheaper there than on the Frontiers during the whole time he has resided in this Colony. In short animal food is the only article which is cheaper here than at that end of the Colony, for every other article of consequence must be exported from that distant spot, and it cannot be supposed but that a freightage of 600 Miles, with a very heavy land carriage and additional risks, must greatly increase the price. Again, Memorialist turns his attention to the Labour and compares his situation at the Frontiers with that of Cape Town, and its vicinity, and he is assisted by a public advertisement in his inquiry, announcing that the authorities there are in want of laboring men, and to whom "four shillings per diem" is offered together with a "Soldier's

ration," while the same class of persons receive two Rixdollars in Graham's Town for the same number of hours. Your Excellency will therefore doubtless perceive that the mistake under which your Lordship wrote on this subject has been highly detrimental to the interest of your Memorialist.

Comment. The assertions I made respecting the rate of living at Graham's Town, I had from Residents there, and inadequate as Mr. Geary asserts his salary to be it is very considerably greater than that of the Landdrost who has constant and unavoidable calls on his hospitality. The rest of this Article is so vague and foreign to the subject that it does not merit a Comment.

6th. That your Memorialist with a view of meeting such unexpected and alarming expences, and thereby enabling him to live on his Salary, applied to your Excellency for the Grant of a Farm, and his application was backed by the recommendation of Mr. Rivers the Landdrost, who declared "I think no one has a fairer claim to a Farm than yourself," and which opinion has since been expressed to him by His Majesty's Commissioners of Inquiry, even after they were apprized of the *nature* of your Lordship's objections, but your Excellency however for reasons which can scarcely be anticipated, was pleased to refuse his humble request by the subsequent reply "I really think when a Community requires all the conciliation a Clergyman can use, and morality and piety are from habit and the absence of example and of means of imbibing them but little felt or practised, it is not to be desired that the Clergyman of a Parish should be a Farmer, and under no circumstances whatever could I do more than attach a Grant to the Chaplaincy, and that would not meet the intentions expressed in your letter, and I should infinitely prefer your receiving pupils, where I think your labours would be eminently useful." But with all due submission to your Excellency's opinion thus expressed, permit Memorialist to say that everyone who claims the least acquaintance with the nature of an *African Farm* is aware how little its management would have interfered with or impeded Memorialist in the discharge of his clerical duties, and surely your Excellency cannot mean to assert that a private Grant would produce more injurious effects on the interests of morality and piety than one attached

to the chaplaincy, which would only increase the difficulties of which he complains by creating expences of no common description in the breaking up and enclosure of its arable land, a project only calculated to promote the advantage of his successor ; and with respect to the classical Instruction of youth, Your Excellency is hereby assured that the time occupied in preparing the Discourses every week, a Service on the Wednesday at the Prison, and on the succeeding day at the Hospital, besides the additional duties of Marriages, Baptisms and Funerals, would deprive him of the power to do any tolerable degree of justice to pupils ; but even supposing the means of tuition possible, your Memorialist begs leave to state that there are no persons here who could pay for their Children the sum that would be required in consequence of the dearness of every article comprised in household expences ; but the grand objects of your Memorialist in soliciting a Grant of Land were the obtaining of Fuel at a moderate expence, which now, at 5 Rds. per load, costs him near 500 Rds. per annum, Pasture for his Cattle, by which his facilities would have been encreased for the obtaining of that indispensable article for his Children, milk, together with cheese, Butter, Poultry and Bread, and after he should have expended a considerable sum in the improvement of a barren spot, at present of no use to any one, and for which it would perhaps be difficult to find a single purchaser, it was, he conceives, no *unreasonable* request that he might by virtue of your Excellency's grant be invested with legal power to bequeath it to his surviving family !

Comment. Earl Bathurst's Despatch of the 31st of July 1822 directs that if the Chaplain has any Glebe Land a fair annual Rent shall be put upon it, and the amount deducted from the £350 salary. In the 5th Article Mr. Geary states that a laboring man at Graham's Town receives Two Rix-doliars per diem. How then could a Farm at 13 Miles distance (which is what he solicited) be a matter of profit to him ?

7th. That your Memorialist for a certain time enjoyed the advantage of the military Herdsman taking out his Cows to graze with the Cattle belonging to the Colonial Government ; and though sometimes through neglect they have got into the public penfold, and not a few times during the winter months

have not been brought home at all, and by which (through the inclemency of the weather) a valuable cow perished, yet since his dismissal from the Military Chaplaincy even this resource has entirely failed !! for Captain Cox of the 6th Regiment has given positive Orders to the aforesaid Herdsman not to take the cattle of your Memorialist to graze as formerly, so that this means of animal subsistence has now become very precarious amidst a very great scarcity of Milk which prevails in this place, in consequence of the Town Lands having been given away, contrary to the original promise made to the Inhabitants thereof, and should this species of persecution end in the destruction of his Cattle, Memorialist cannot but consider that he has a fair claim on the Colonial Government for remuneration. He is also by his dismissal deprived of his Military servant in a place too where Servants are extremely scarce and hardly procurable even for the most exorbitant wages, while the Reverend Mr. Hough, the Chaplain of Cape Town, has the advantage derived from the labour of Prize Slaves.

Comment. Mr. Geary's indecorous and insubordinate conduct rendered his dismissal from the Military Chaplaincy unavoidable, and with it he lost those Indulgences which are generally afforded to the Military Chaplain when the service will allow of it. I have nothing to do with Prize Apprentices, therefore this Article is irrelevant, but I conceive that a Negro Apprentice, Male or Female, cannot be better placed than in the family of a *really pious and benevolent English Clergyman*.

8th. That your Memorialist incurred the displeasure of your Excellency for no other cause than resisting the unjust attempt of Mr. Rivers the Landdrost of Albany to deprive him of his Surplice Fees (contrary to those Instructions which Memorialist knew had been forwarded to your Excellency from the Right Honorable Earl Bathurst) and the circumstances of which he begs leave to detail. An application was made for the gratuitous performance of the marriage ceremony in favour of a certain couple, when Mr. Rivers declared "He would give directions for its being done," and pauperism in the parties was the ostensible plea urged by him for his interference, but Memorialist having discovered that Mr. Rivers permitted the Secretary of the Matrimonial Court to exact of *those very persons*

the whole amount of its accustomed fee of Ten Rixdollars, he refused to comply with the application of the Landdrost made to him for that purpose, having doubts as to the accuracy of his Statement, which have since been confirmed by Memorialist having positively detected a most palpable and wilful mis-statement in the letter of Mr. Rivers, and is one of the charges which Memorialist is as able to substantiate as he is desirous to enter into at any time.

Comment. The Enclosure No. 2 will shew that this is a gross and wilful mis-statement. Mr. Rivers knew nothing of the Regulation respecting the Surplice Fees until the printed Regulation on that Head was sent to Him officially.

9th. That your Excellency made yourself a party in the dispute of Two Individuals (and which but for your Lordship's interference would in all probability have shortly terminated) by insisting on Memorialist making a reparation to Mr. Rivers for resisting this intrusion on his clerical privileges; and Memorialist not having complied with so unreasonable an injunction appears to have been the sole cause of that system of oppression, partiality, persecution, Insult and degradation he has since experienced, and which when detailed in all its operations he is sure will do no credit to the Colonial Annals of South Africa.

Comment. Mr. Geary allows himself such Latitude in his Language and Conduct as well as with his Pen—that it is not easy to imagine what his views of Insult, Respect, or even Courtesy are.

10th. That your Memorialist having reported to Mr. Rivers some of those gross and scandalous immoralities which were permitted within the walls of the Town Prison, by the Under-sheriff Wathall, such as permitting the male prisoners under criminal charges to sleep with the females as a Reward for the work which he had long been in the habit of employing them for the promotion of his own private advantage, and provoked at his being detected in other disorderly practices and prevented from employing the Prisoners whom he had the impudence to send for during the performance of Divine Service to work in his Garden, called Memorialist in the presence of all the prisoners under confinement, before whom Memorialist officiates weekly, a damned Rascal!!! which Memorialist

made the subject of an official complaint to the Landdrost (Mr. Rivers), but a whole fortnight elapsed previous to his taking the least cognizance of the insult Memorialist had received in the faithful and conscientious discharge of his official duties, when the Landdrost instituted a preliminary investigation into the nature of his complaint against Wathall, and which was conducted by Captain Hope, the *laborious* Inspector of the Signal Posts, and who is also a Member of the Court of Heemraden, and before whom Memorialist fully substantiated his charges by the evidence of two Witnesses which the culprit in his defence merely denied but declined calling any witnesses whatever in support of his declaration, yet (wonderful to state) Memorialist was told by him (Captain Hope) in the presence too of the defamer of his character, of whom Mr. Bigge, one of His Majesty's Commissioners of Inquiry, did not scruple to declare that "it was impossible to speak in terms sufficiently bad," that by his denying the expressions imputed to him he had made that reparation to Memorialist which "*the nicest feelings of honour could demand!!*" a Sentiment which your Excellency knows would be rejected with contempt and disdain by the upright judges of England, because if such a plea was allowed, no conviction could possibly be expected to follow, even though guilt should be established upon the clearest evidence, for every Culprit would of course avail himself of the privilege thus held out to him, and according to the modern doctrine laid down by the aforesaid Captain Hope (*one of the Judges of Albany*) an acquittal must be pronounced, and Mr. Bigge has declared his conviction to your Memorialist, that "this was a most unfortunate speech of Captain Hope, and the worst part of the business connected with the trial, that Jarman the Convict was *perjured* whom the Culprit had brought as a Witness, that he had no doubt of Wathall's guilt, and that he *ought* to be punished, for that in England he did not know of a greater crime than to insult a Clergyman." The Landdrost however, instead of employing that authority which he has so vexatiously exerted against a Minister of the Venerable Church of England, unfortunately separated from Episcopal Jurisdiction, made such plausible representations of Wathall's conduct in prison and in his demeanour towards your Memorialist, as to induce your

Excellency to write him (Memorialist) a Letter, in which you were pleased to state that "having been made acquainted with the accusations of Memorialist against the Undersheriff Wathall, as well as in relation to the Prison, it appeared by the Day Book of the District that the *Regular legal course was pursued in both cases!!*" and that "if Memorialist continued so to interfere with subjects which are not connected with his clerical duties, it will become your Lordship's indispensable duty to dismiss him from the Service of the Colonial Government;" but Memorialist feels that he should be utterly unworthy of the sacred profession which he has the honor to exercise as a Clergyman of the Church of England had he passed over in silence, and thus connived at, those immoralities which were so notoriously practised, or to have permitted any threatening whatever to have deterred him from the faithful discharge of those duties which he is confident the most Reverend the Archbishops and the Right Reverend the Bishops of England will unanimously determine to have been closely connected with his ministerial office, as well as to have merited the "*sharpest rebukes*" agreeably to the inspired injunctions of the sacred Writings; and therefore constituted a proper subject for report to the local Magistrate.

Comment. A complete falsehood, which Mr. Geary is fully aware of.

11th. That your Memorialist, subsequent to the extraordinary decision of Captain Hope, was informed by Mr. Onkruidt (the late Acting Secretary to the District) that "he was commissioned by the Landdrost to inform him that his complaint against Wathall would be investigated and finally decided in a few days by the Court of Landdrost and Heemraden," and Memorialist accordingly summoned his witnesses and made the necessary preparation for the trial, but on his appearance before the Tribunal, assembled as they were with the doors carefully closed!! to the exclusion and disappointment of a great number of persons who had collected to hear the Trial, the Landdrost as President stated: "that the Court was incompetent to try a case of defamation!! but that they were willing to investigate any complaints against Wathall as a public Servant," and Memorialist, feeling irritated at being thus trifled with, after all the preliminary formalities of a

Trial had been complied with, and the Court through their *Attorney General* had issued its mandate for the attendance of Witnesses, by such extraordinary proceedings, could not forbear to express his astonishment, because the Court of Circuit had but recently declined trying a case of this very description, and referred the Complainant to the Court which in this case declined the investigation on the grounds of "incompetency!!" and Memorialist therefore appeals to your Excellency whether he was not justified in supposing (under such circumstances) that the Court had actually shewn a disposition to skreen Wathall from conviction and deserved punishment, and which up to the present hour is the prevailing opinion of nearly the *whole Town*, and on Memorialist declaring that he was impressed with a similar sentiment, he has been served with a Summons from the Fiscal to attend in person at Cape Town in order to *plead to the charge of having used highly offensive expressions towards the Board of Landdrost and Heemraden!!* But your Excellency will judge whether so long a journey would not be productive of more injury to the cause "of morality and piety" in the total suspension of *public worship* than it could have been by the absence of a Clergyman for only a few hours in a week, in making an excursion to a neighbouring Farm, only about Twelve or Thirteen Miles distant, which he has in vain solicited, and which was denied him on the grounds that "the community required *all* his attention;" but for which he *again* presents his prayer to Your Excellency. At length however a second Summons from the zealous Fiscal arrived at the Frontiers for your Memorialist, in which the phraseology of the first process is considerably altered, and the former *inflated* charge has sunk into "Injurious expressions!!!" but why this material alteration has so suddenly taken place the learned Fiscal will no doubt be able to explain.

Comment. Mr. Geary so insulted the District Court that on the Minutes being forwarded to the Court of Justice in Cape Town, he was summoned to appear in person before that Court to answer for his contempt to the constituted Court. Wathall was tried and acquitted. The proceedings were all conducted with regularity and according to the legal Forms.

12th. That your Memorialist also begs leave to remind your

Excellency that on Wathall being suspended by the Landdrost ror, and on account of, *another* charge preferred against him by Memorialist, he was by your Excellency's commands reinstated in his office almost as soon as your Lordship was apprized of his degradation, and advertisements were posted up in different parts of the Town announcing his speedy restoration; and because the culprit declined a reinstatement into his former Office, he has been gratified in his claim of another situation more lucrative and therefore of course more agreeable to his wishes: viz. First Messenger in the Landdrost's Office! This extraordinary proceeding has excited a *general* remark in the Town, that Wathall has not only been skreened from deserved *punishment*, but actually *rewarded* by your Excellency *for grossly insulting a Clergyman!*

Comment. Wathall was suspended when Mr. Geary made his charge against him, and reinstated when acquitted as an act of justice as well as a matter of course.

13th. That your Memorialist has ever been desirous of treading in the impress of his Divine Master's illustrious footsteps, and can readily forgive injuries of any description of a *private nature*; but when insults are heaped upon him in his clerical character, to impede his usefulness or raise an odium on the Holy Religion he professes, he will ever conform to apostolic example and magnify his office, and so long as that religion has a friend in the British Legislature he will appeal to its authority for protection while he continues, as he believes he has hitherto done, in the faithful and conscientious discharge of his duty.

14th. That Memorialist while in his *Canonical Vestments*, on two several Sundays, and in the exercise of his Ministerial Office, has been publicly and grossly insulted by your Lordship's Son, Major Somerset, Commandant of the Frontier, and in a way so *unprovoked* and *unmerited* that it is impossible for him even now to assign any cause for such unjustifiable and unprecedented conduct; were he in England he would have incurred the displeasure of the Ecclesiastical Court. This conduct of the late appointed Commandant is the more aggravated from the circumstance of Memorialist having shewn the forbearance of passing by the *first* insult.

Comment. Mr. Geary was dismissed from the Military Situation, for gross insult to his Commanding Officer

15th. That your Memorialist remembers your Excellency did him the honor to inform him that your Son (Major Somerset) suddenly withdrew his troops from the public ministration of a certain Clergyman in Africa, because he was intoxicated, but as his habits are still decidedly intemperate Memorialist cannot repress his astonishment at witnessing his recent Elevation, for his present condition, designated by the introduction of a name into the Cape Calendar once so offensive to your Lordship, and attached as it now is to the highly responsible and important situation of a *Public Teacher of Youth*, your Memorialist cannot but contrast with his *own* situation, in having *his* name inserted in the public orders of the army as being disgraced, and his Salary contracted, for repelling in his *clerical character* an insult from Major Somerset !! a course which every *Gentleman* would have adopted, and every Clergyman, had he *not* done so, would (Memorialist conceives) have justly incurred punishment and disgrace.

Comment. The first part is a complete fabrication. No name can be more disgraceful in South Africa than Mr. Geary has by his conduct rendered his own.

16th. That while the most extraordinary and unprecedented proceedings under the direction of the Fiscal were going on in Cape Town against your Memorialist, in order to exhaust his finances and weary him with fatigue by a journey of more than 600 miles on one of the most trifling and vexatious prosecutions ever instituted against an individual of any country, a Libel of the most gross, false and scandalous description made its appearance in the Cape Town Official *Gazette* !! under (as Memorialist conceives) the sanction of your Excellency, calculated to bring down upon him, in his clerical character, the Scorn and derision of mankind, increase the number of Dissenters, depreciate the doctrines of the Church of England to persons unacquainted with their purity, and bring her public Service into contempt and neglect ! Nor can Memorialist conceal his impressions that this measure was adopted for the purpose of influencing the Judicial proceedings which were then pending, by prejudicing the Law authorities against him, and *arm the Fiscal with additional weapons to complete his destruction* !! and although your Excellency, by virtue of Memorialist's *earnest solicitations*, has permitted his remon-

strance to be inserted in that journal at a subsequent date, (when the mischief was actually done) and the libel read and left an unfavorable impression on the minds of hundreds who could never see the latter to erase them or those letters of his upright Neighbours spontaneously written in vindication of his conduct, and connected, as Memorialist has heard they have been, with a brief apology which as far as concerns the Editor and Printer he will take into consideration at a future period provided the name of the iniquitous author has been given up for prosecution, yet Memorialist cannot pass over unnoticed the extraordinary suppression of those papers at the Frontiers!! for only one he believes found its way, and that was the property of his Majesty's Commissioners of Inquiry, by which it is probable they are impressed with an idea that the aforesaid apology has had as free and uncontrolled a circulation as the previous pernicious Libel; but the fact is otherwise, and it remains with the detainer to account for the circumstance.

Comment. These proceedings were in consequence of his contempt of Court. There can be no means of encreasing the number of Dissenters so probable as a Clergyman of the Established Church conducting himself as Mr. Geary has deported himself. The *libel* Mr. Geary talks of was an Extract of a private Letter which was inadvertently (and I may say improperly) inserted in the Cape Town Gazette.

17th. That your Memorialist was informed by your Excellency's Letter which he had the honor to receive, that "The Scale of Fees upon which he had acted existed nowhere," but Memorialist in vindication of his character begs leave to state that he received his Instructions from the Secretary of the Albany Matrimonial Court, who was the only legal officer in the District; and the amount of Fees which, on his authority, Memorialist received, can be clearly established as the customary Fees of the Colony by many Witnesses, exclusive of the Sentence quoted in the margin from a work published in this Colony, and which report ascribes to the pen of Mr. Wilberforce Bird, nor can Memorialist leave the subject without adverting to the *manner* of altering the Surplice Fees, which according to the Instructions of Earl Bathurst were to be "fair and reasonable," and it does appear to Memorialist rather

extraordinary, until corrected by an explanation from your Excellency, that this charge was not announced to the public in the regular way through the *Official Gazette* in the Shape of a Proclamation, to render it a part of the Law of the Colony, but contained in a solitary page of foolscap, privately circulated, which in all probability, in consequence thereof, will never be inspected by the home Government until his own copy arrives in London, and Memorialist at present considers (from this fact) that it was only intended to operate against *himself*, to gratify the malice of a certain individual.

Comment. The fees exacted by Mr. Geary were exorbitant and had no Precedent. The Secretary to the Albany District declared positively to me that "He never gave Mr. Geary any scale of Fees whatever." This whole statement therefore is grossly false, and the conclusion he draws in the latter part of this Article could only emanate from a mind as malignant as Mr. Geary's.

18th. That your Memorialist cannot forbear to express to your Excellency that he humbly conceives it to be an act of cruelty and injustice to decoy a Clergyman with a family, and bring him to a foreign Land under a promise that "his Surplice Fees would be considerable," and then at an early period after his arrival through the secret influence of the aforesaid Individual, who is scarcely any man's friend, and at the suggestion of the Reverend Mr. Hough, the Chaplain of Cape Town, you should consign nearly the *whole* to oblivion, and load him with a surplus of gratuitous duty on Sundays, a task truly laborious and distressing to the feelings of a Clergyman in a warm climate who has previously performed *two full Services*, and whose Sermons generally occupy an hour; and that not merely to serve the *poor*, (for no line of distinction is drawn) but is as free for the *opulent Dutch Farmer* with his immense possessions (and who as eagerly claims the advantages your Excellency has thus held out to him) as the most distressed pauper in Albany; for which latter description of persons Memorialist *can feel*, and has *certainly exempted from Fees*, while the Matrimonial Court (of which Mr. Rivers is President) has exacted the *full amount*. Nay!! even *compelled* one man (and the very person too previously noticed, for whom Memorialist was desired by Mr. Rivers to perform gratuitously

the marriage Ceremony for reasons before stated) to return from Graham's Town to his own Location, a distance of Sixty Miles, to procure two Rixdollars to add to the Eight of which he was in possession, in order to make up the full amount; and which said Sum of Eight Rixdollars was actually offered for the Licence previous to his journey, but refused!! and Memorialist has in his possession this fact recorded in the handwriting of the individual himself.

Comment. If Mr. Geary does not like his appointment why not resign? The latter part of this is a gross and direct falsehood.

19th. That your Memorialist has not only the duties of the whole district to perform gratuitously, but persons of other Districts are intruding for their own convenience, and Mr. Rivers has declared that Memorialist must attend to them also, while a Clergyman in Cape Town having only one Service to perform on the Sunday has an annual Stipend of £800 sterling, and whose Surplice Fees are *really* "considerable" and *immense*, but Memorialist anticipates the most ample justice from His Majesty's Ministers, should it be refused him in this Colony, for His Majesty's Commissioners of Inquiry reprobated the practice of thus overwhelming a Clergyman with extra labour on the Sunday, after the fatigue he has incurred by the discharge of his regular duties.

Comment. Not worth a Comment.

20th. That your Memorialist also begs leave to submit to your Excellency another grievance in the want of a suitable Parsonage House with Glebe Land, nor has a suitable situation for a Church nor any proper accommodation for a Clergyman been thought of by Mr. Rivers, for he has lavished away even the Town Lands on his particular favourites, Servants and Labourers, while Commissioner Bigge declared to Memorialist that he had particular instructions from Earl Bathurst to see that the Clergyman was properly provided with Glebe Land, and such other comforts as might form an inducement for other Clergymen to reside in Africa, and the only House in the Town calculated from its detached and quiet situation for the residence of a Minister of the Established Church is the one for which Memorialist applied to your Excellency even *before* it was appropriated, and which your Excellency *offered* him

(before your Lordship had become a Party to the misunderstanding between Memorialist and Mr. Rivers), but which notwithstanding is occupied by Mr. Daniel Cloete (Brother in Law to Mr. Rivers) and the lately appointed *Dutch* Secretary of the District of Albany (though totally unacquainted with the legal profession), and to which Memorialist feels that he has a Superior claim from a prior application, as well as a knowledge of his official duties.

Comment. The Secretary's House was twice offered to Mr. Geary, and refused, *vide* Enclosure No. 4.

21st. That your Memorialist has expended upon his present dwelling House a sum not less than Three Thousand Rix-dollars!! and it is still particularly uncomfortable for a Clergyman, nor is his Garden half enclosed, even Mr. Rivers, a few days prior to the arrival of your Memorialist, had actually stripped it of a great part of its fence, and conveyed it to his own premises, and the natural consequence of the exposed state of his Garden is that the crops of Memorialist are successively devoured by Cattle which are straying about the Town, besides which there is Wathall on one side of him, and till lately a Canteen on the other, with numerous Hottentots trespassing on his grounds. The former is frequently annoying him by wholly turning off the water which should irrigate the Garden, or giving it a check to suit his own purposes, and the other by the noise of persons under the impulse of intoxication, even on Sundays!! so that his dwelling is rendered perfectly disagreeable.

Comment. *Vide* same enclosure.

22nd. That the place of your Memorialist being thus exposed for want of a Fence to the inroads of nightly depredators, his losses in Firewood are very considerable; and Mr. Bigge declared to him (Memorialist) "that it was extremely cruel for a Clergyman to be thus *elbowed* by such people on each side of him," while the House before alluded to is so situated as to exclude most of these disadvantages, and has about four acres of Land attached to it, and to which place Memorialist still *presses his claims* if he must remain in the Colony; for besides that portion of land (which is more than a single gentleman without a family can want for his own domestic purposes) and an increased Salary, a report is current here (which if not

true is easily contradicted) that he is shortly to be put in possession of one of the most extensive grazing Farms which can be procured for him, while it appears that the English Settler is confined to a spot insufficient for the support of his family!!

Comment. The Report alluded to is the sole Invention of Mr. Geary for the occasion, I never heard of it. *Vide* Mr. Bigge's Letter, Enclosure No. 3.

23rd. That your Memorialist begs leave to suggest to your Excellency that the house in which he at present resides is far more suitable for a Secretary than for a Clergyman, for the dread of a prosecution from him would always operate as a preventive to the existence of those unpleasant circumstances of which he complains; and Memorialist therefore prays that your Excellency will give directions, for his occupying the aforesaid House, and that an equal Sum to that which Memorialist has expended on the present Government Parsonage be laid out on the other, to render it sufficiently commodious for his Family.

Comment. *Vide* Enclosure No. 4.

24th. That your Memorialist *oppressed, persecuted, insulted, libelled and degraded* by the insertion of his name into the public orders, as being dismissed from the Army, deprived of his just emoluments and curtailed in his Salary, requested His Majesty's Commissioners of Inquiry to forward an application to Your Excellency for permission to return to England at the public expence, after reimbursing him for the amount laid out on the Government House in which he resides, but which your Excellency was pleased to reject, and Memorialist has therefore no alternative but enclosing Duplicates hereof in a public Memorial addressed to Earls Bathurst and Liverpool, His Majesty's Ministers, in the event of your Excellency's not redressing those grievances of which he has so much cause for complaint, and rendering him comfortable in the faithful discharge of those important duties which devolve upon him, agreeably to the wishes of the Noble Secretary of State for the Colonies, and declared to him (Memorialist) by His Majesty's Commissioners of Inquiry.

Comment. That Mr. Geary is degraded by his own conduct is most true, and degraded to the very lowest pitch.

25th. That your Memorialist cannot conclude this his

Memorial without briefly laying before you the case of his Clerk, who has performed the duties of his office more than Twelve months, and who was appointed at the same time to the Situation of District Schoolmaster, with a Salary of 600 Rixdollars per annum and a House to reside in, but who Memorialist assures your Excellency has not received a Stiver thereof towards the support of his Family, (it having all gone for rent) and notwithstanding Mr. Rivers announced to His Majesty's Commissioners of Inquiry near two months ago, that "Your Excellency had authorized him to provide Howard with a residence," he still remains in the same uncomfortable state, which he described to your Excellency so long ago in two successive Memorials, but to which he has received no answer up to the present moment, and if reports are correct it appears very likely that he will remain as he is for some considerable time, unless your Excellency be pleased to interfere in his behalf; for the Commissioners stated that the old prison is intended to be formed into the District Schoolroom, where they said he was to have apartments provided for himself and family; but the Builder of the new Prison retains possession of the keys until he is first paid the amount of his Bill for erecting the edifice.

Comment. The Clerk has had an allowance of Rds. 20 per month, in lieu of apartments, till his apartments as schoolmaster shall be finished.

26th. That your Memorialist humbly conceives he ought to have been the *last* person at the Frontier to have been thus persecuted by your Excellency, and he cannot forbear to state to your Lordship that he incurred no inconsiderable degree of obloquy in some of the English journals in consequence of his getting up a counter Memorial to serve your Excellency, (though most conscientiously done,) and he obtained near 200 Signatures thereto while Mr. Rivers (altho' acquainted as Your Excellency knows he was with the whole of the circumstance,) discouraged me from proceeding, for it is well known that had he appeared in the business, *so much is he respected* here, that Memorialist may safely venture to assert that not half a dozen persons (exclusive of those employed in the Offices) would have taken the trouble of writing their name to the aforesaid Document Nay!! would have *spurned* it from

their presence, and if your Lordship has heard of the numerous complainants who have waited upon His Majesty's Commissioners of Inquiry (and all the most respectable Inhabitants of the District are included) your Excellency is no doubt before this period impressed with the fact that his misconduct has become a *just* subject for public animadversion.

Comment. The Landdrost very properly opposed anything like an address that was not spontaneous, and as soon as I heard of Mr. Geary's endeavours I wrote to Mr. Rivers to check it, and found he had already done so. The address was forwarded to me, but I never noticed it in any way.

27th. That your Memorialist (before he finally closes his Memorial) begs leave to call your Lordship's serious attention to the injury which His Majesty's Troops are sustaining, in consequence of their being deprived of the important advantages of attending public worship on the Sabbath day, and many of whom feel and lament it, but your Memorialist leaves it to your Excellency's candid consideration whether such an *extraordinary* prohibition is not producing most injurious and baneful effects on the Sacred Cause of *Morality* and *Piety*.

Comment. The Service is regularly performed to the Troops as upon other Stations where there is no Chaplain, they are infinitely better without a Chaplain than one of Mr. Geary's malignant and rapacious disposition.

(Signed) CHARLES HENRY SOMERSET.

28th. That your Excellency's Memorialist presents his case before your Excellency by Memorial, agreeably to the Statutes in that case made and provided, for the purpose of obtaining that redress to which he feels himself entitled as a Clergyman and a British Subject, previous to its being dispatched for England, where a part of it has already been sent to His Royal Highness the Commander in Chief; and he now solicits Your Excellency to restore him to all the rights and privileges of an English Clergyman while he remains in this Colony, agreeably to the advice your Excellency received from Earl Bathurst, and of which he has been so long and so unjustly deprived; and Memorialist will ever pray.

(Signed) WILLIAM GEARY.

GRAHAM'S TOWN, 19th April 1824.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 20th April 1824.

MY LORD,—A vacancy having occurred in the Members of the Bank in this Government by the Death of C. S. Eckard Esquire, I availed myself of the opportunity to render the Salaries of the two remaining Members and the Cashier something more adequate to the respectability and responsibility of their Situations, by not filling up the vacancy but adding Five Hundred Rixdollars per annum to each of those appointments, rendering the two former Two Thousand One Hundred Rixdollars per annum each, and the latter Two Thousand Rixdollars per annum. I disposed of the remaining One Hundred Rixdollars per annum by adding it to the still very inadequate Salary of the Second Clerk in the Secretary's Office rendering it One Thousand Rixdrs. in lieu of Nine Hundred Rixdollars per annum, which arrangement will I trust meet with your Lordship's entire concurrence and approbation.

On the recent Death also of J. F. Reitz Esquire, Commissary of Vendues, I have made an arrangement which I trust will be equally acceptable to your Lordship: the great Encrease of Business in this Department having greatly augmented the responsibility of it and having certainly rendered the Situation of Assistant Commissary quite as laborious as that of the Chief—I considered it beneficial to the public Service to unite the Salaries of Commissary and Assistant Commissary and, appointing two joint Commissaries, to divide the Emoluments equally between them. I have accordingly appointed Charles Augustus Fitz Roy Esqr. and Egbert Andries Buyskes Esquire (the late assistant and of Sixteen years service in His Majesty's Government) to be joint Commissaries of Vendues, and I have required from each the full Security heretofore given by the Commissary alone. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Copy.]

*Letter from J. T. BIGGE, ESQRE., to LIEUTENANT
COLONEL BIRD.*

GRAAFF REINET, 21st April 1824.

SIR,—A representation having been made to us by Jos. Jm Frs. Maartens, an inhabitant of this place, that he has transmitted two Memorials to the Colonial Government, one in the month of May, and the other in the month of June of the year 1821, praying that a place called Pienaars Baken near the Wagepads Berg in the Veld Cornetcy of Sneeuwberg in this District, might be granted to him, and that no answer has been received by himself, and no reference of the said memorial has been made to the Landdrost, I have the honor to request that you would inform me whether there is any note of the receipts of the memorials above described in the Books of your Office, and if so whether any Proceedings were held upon them. I have &c.

(Signed) J. T. BIGGE.

[Copy.]

*Letter from MR. WILLIAM EDWARDS to LORD CHARLES
SOMERSET, with the GOVERNOR'S Comments upon it.*

CAPE TOWN, 22 April 1824.

MY LORD,—There have been instances where the unrelenting severity of an unfeeling Parent has driven to desperation an amiable (perhaps a virtuous daughter) whose offending has arisen more from the warmth of affection than absence of chastity, and you are aware that calumny has often converted man to crime.

This reflection, my Lord, arises from the knowledge that I was two days ago branded by one of your Dependants with the odious and hateful appellation of a "Radical."

In repelling this falsehood, and declaring my loyalty to our Monarch, and affection to his Ministers, I must throw my

scabbard amongst your Minions ; yet I will be a bold, candid and an open Enemy, whilst I clip the Wings of every Bird which dares to croak or peck at me.*

After your decision, on my appeal, in a prosecution, whereof you were the Father, (as appears by Mr. Brink's letter to Mr. Denyssen dated 30th of January,† notwithstanding the denial of yours of the 4th of February) in which had the case fairly proceeded you must have been a Witness, and herein both your Assessors were materially interested, and the Bird involved, I had resolved to waive all further correspondence with your Excellency on my own grievances, until we met on more equal terms before the Parliament of our Country, where I could assert and you hear my complaint, without even the supposition of an offence to the Sovereign of my heart.

This resolution was confirmed by the insolent and peremptory tone of your private Secretary's threats, to punish the Calumniator of a person, whom I charged, because you had known his virtues for ten years.‡

My resolution was further confirmed by the knowledge of a similar acquaintance with Mr. Van der Riet, of George, Mr. Blair, Mr. Rivers, Mr. Wilberforce Bird, Mr. Kekewich and Mr. Denyssen, and almost the same acquaintance with the convicts in prison. However I have altered this resolution.§

I wrote to the Court of Justice some time ago, complaining of the illegality of my conviction on the prosecution of a Fiscal's Clerk, for what was called a "house molestation," it being contrary to your own Law, which enacts that the Fiscal or one of his Deputies shall conduct all prosecutions.||

* This is a complete fabrication.

† As the letter of Mr. L. Cooke contained the foulest Calumny against Mr. Blair's Character, I referred it to Mr. Blair, who solicited that I would permit the Fiscal to prosecute in consequence of the Libel being directed against a Public Servant of the Government. Hence arose Mr. Brink's (the Assistant Secretary's) Letter of the 30th January 1824.

‡ My decision in the Court of Appeals was not made until I had called upon the Chief Justice by an Order of the Court for his professional opinion upon the point of Law, and my decision was conformable to that opinion.

§ This was a charge totally without foundation made by Mr. Edwards against the Chief Justice, which Mr. Edwards did not even pretend was true when he made it.

|| This was proceeded in in the usual manner.

When the Court returned my letter, I sent it to you, you have not answered it.

You will recollect, I complained in it, of the indecency with which Mr. Richardson (who long served His Majesty in honour and in truth) was treated by being compelled to stand like a Felon, whilst a man of the name of Auret, the Fiscal's Clerk, a fellow of no education, family, or connection, the son of an unwashed Artificer married to the Daughter of a menial of the Court by a Bastard Hottentot, was permitted to act as Prosecutor, close to the Judge, and occasionally allowed to whisper in his ear.*

Your Lordship must feel that this was a perversion of the Law, and implies an arrogated power for your Ministers or yourself to construe your laws as you please.

I beg pardon, implies I said, but I meant *proved*, because it was proved by your making a general law one day and authorising Doctor Roberts to trample on it the next.†

I wish your Excellency had extended your permission to the whole conscientious body of the faculty, who are now pining at the uncharitable proclamation which constrains them not to charge less than the exorbitant Tariff of your flying Adviser. I am sorry to find that lost in the maze, the labyrinth of injustice, incongruity, and inconsistency, which surrounds me, I have wandered from my subject.‡

I had almost followed your legislative Bird through his

* Mr. Edwards committed a violent and unprovoked assault upon a respectable person and was fined 300 Rixdollars for it. The parents of Mr. Auret are persons of unimpeachable conduct, and he is a very worthy, able and laborious Servant of the Public. This is a base, unfeeling and unwarrantable attack upon a respectable Individual.

† I made no Law on this subject, the Law that is alluded to was promulgated by the Earl of Caledon, it was in some instances abused and was republished; Dr. Roberts was not authorized by me to trample on it. During Sir Rufane Donkin's administration, he granted an exception to the General Law to Dr. Roberts, and it would not have been decorous in me to have revoked an indulgence extended to the Individual by the Acting Governor, nor would it have been just towards him when upon the faith of that indulgence he had embarked all his means in establishing himself in that Line of Business.

‡ The Tariff was fixed after due consideration of a Medical Board, and whilst it is consistent with the means and circumstances of the Community it is only a fair and very moderate compensation to the practitioners.

Regulations of Bakers, Butchers, Wine Buyers, Wine Sellers, Wine Growers, Brewers, Schoolmasters, Lawyers and Doctors, to recommend he would frame an omnipotent Regulation of the South-Easters.

When I sat down, my only intention was to complain that I am prevented leaving the Colony by an excessive fine, levied on myself and my friend Mr. Richardson for telling a cheat of his roguery.*

That this hinders me from seeking impartial justice in the case which you have decided, that we (being Englishmen) who only told the truth, are put to an expence of near Six Hundred Rds. by a Dutchman, once a humble clerk in a Law Office, whilst a few days ago a rich Dutch Mulatto, who pursued and assaulted an unprotected female, the natural child of my Father's brother, was only fined Thirty Rixdollars by a Dutch Judge.

If the latter fine was reasonable sure mine was excessive, the only charge against me being that I told a rascal I disliked his conversation.

So now, My Lord, I claim as an act of justice that you enquire into the circumstances of my fine, and let it be remitted, that I may proceed to Europe to procure a revision of your Decree.

I ask this as an act of Justice, not of favor, My Lord, because I abhor a favor from those who call me Radical.

If you say this fine ought not to be remitted, I will pay it, but when I do I will wage war with an instrument whose point is dipt in gall, which will give a deadly smart to the hand that takes oppression's price. I am &c.

(Signed) W. EDWARDS.

* The Assault for which he was tried and condemned.

[Original.]

*Letter from MR. WILLIAM HART to the COMMISSIONERS OF
ENQUIRY.*

GRAAFF REINET, *April 24th 1824.*

GENTLEMEN,—However painful it is to my feelings in laying before you a case of distress, I trust a duty I owe to my numerous family, consisting of a Wife and seven Children unprovided for, will plead in excuse for my so doing.

Permit me, then, Gentlemen, briefly to mention to you, that after having faithfully, and I trust honorably, served my Country as an Officer the best part of my Life, and attained the Rank of B. Lieutenant Colonel, I sold out. That subsequently I lost by a failure in England, not only the fruits of my long Service, but property besides to a considerable amount. Thus situated, and having no resource whatever left for the Support of my family except three shillings per diem arising from the Half Pay of a Cornetcy of the Royal Waggon Train, I came to this Country in the first ship of Settlers, with a part of my family only, in the expectation from the favorable accounts that had been given of it, I should soon be enabled to send for the remainder, namely my wife and four Children, my circumstances being then such as prevented my bringing them with me, but, since my arrival in this Country, my views have been completely frustrated by the failure of my crops, and my Cattle and part of my agricultural Implements having (about seventeen months since) been taken from me by the Caffres, which has not only disabled me from further exertions, but has left me as a husband and a parent in a most deplorable state, without the means of doing anything for my family or the prospect of again uniting it.

In this distressing situation, without even the ability of returning to my Wife and Children in England, of giving them the assistance they stand in need of, or of the means of renewing my exertions in this Country, the only hope now left to me is, that in consideration of my long Services, you will do me the honor to submit and recommend my case to the notice of His Majesty's Government, and, in apologizing for the liberty I have taken, I have &c.

(Signed) WM. HART.

[Copy.]

Memorial of Mr. BENJAMIN WILMOT.

NO. 9, CASTLE STREET, CAPE TOWN,
April 24th 1824.

To His Excellency Lord Charles Henry Somerset, K.C.B.,
Governor of the Cape of Good Hope, &c., &c., &c.

The Memorial of Benjamin Wilmot, late of Albany, Humbly
Sheweth

That your Memorialist addressed your Excellency in the form of a petition in the year 1822, praying for a pecuniary compensation for the loss of six of his Oxen and damages occasioned by the neglect or misconduct of the District's Servants of Albany, the Scut Kraal Keepers, and setting forth the impossibility of obtaining any redress from the Landdrost Harry Rivers, Esqre., to whose authority he applied for redress, who instead of settling this affair amicably between your Memorialist and the District, as it most undoubtedly was his duty to do, thereby to prevent litigation, but he would never entertain the subject, nor gave any decisive answer whether he would act in the affair or not, a mode of conduct which operated far more to your Memorialist's disadvantage and damage than by his submitting to an actual denial of justice.

That your Memorialist after 18 months anxiously anticipating a favorable result to his Memorial and patient expectation of being honored by your Excellency's pleasure on the subject to no effect, was conscientiously compelled in justice to his creditors to institute legal proceedings to recover compensation of the District, that in doing so your Memorialist, not being then acquainted with the Colonial Laws and the particulars to be observed, applied to Mr. Onkruydt for a Summons, there being no advocate or Solicitor on the frontier, who instead of advising what was to be done, wholly refused to grant a Summons against the District, without assigning any reason for such refusal, yet acknowledged that the application was made in time.

That your Memorialist on the arrival of the Honorable the Commission of Circuit, presented a Memorial to that Court for a Summons against the District as proprietors of the Scutt

Kraal, setting forth Mr. Onkruydt's refusal and the particulars of his Case, which they granted after a long discussion with your Memorialist on points of Law connected with his Case. That your Memorialist and his Witnesses were summoned to a hearing, but instead of his Suit being brought on, he was honored with a *private* audience, when a string of objections or Law points were urged by the Court in bar of his Case, but which your Memorialist flatters himself he overruled, as that Court decreed in answer to a second Memorial addressed to their Honors "that they could not proceed to a hearing, without further powers from Cape Town;" what those powers were your Memorialist did not then know, nor could he learn, therefore could not object to it in reply, as he would have been enabled to do with effect, if he had been made acquainted with merely the name of those powers, which he now supposes to be the decree *Venia Agendi*, a term he has since become acquainted with. That he laid the above facts and all the other circumstances relating to this Subject fully before His Majesty's Commissioners of Inquiry, who in one of the interviews he had with them was directed to apply at the Landdrost's Office and enquire if any and what answer your Excellency had made to the above-mentioned Memorial of 1822, and obtained a written communication from Harry Rivers, Esqre., as follows :

GRAHAM'S TOWN, 17th March 1824.

SIR,—Having made all the inquiry in my power relative to the loss of your Cattle from the Pound in the year 1822, and the losses and damages which have accrued to you in consequence thereof, *I have reported* to the Colonial Office in reply to your Memorial to His Excellency the Governor on the subject, and I have stated that I consider you entitled to be reimbursed the value of the oxen, and compensated for the loss of their work, which upon a general view of the whole transactions, cannot be estimated, including the value of the oxen, at less than five Hundred Rix Drs. I shall not fail to communicate to you His Excellency's decision on my report.

I am Sir &c.

(Signed) HARRY RIVERS.

Mr. B. Wilmot.

That your Memorialist in consequence inquired at the Colonial Office to learn your Excellency's decision, and produced the Original Letter to Mr. Brink, who said that no Traces of any such report could be found.

Your Memorialist being very desirous to return to England, where his family's affairs, and his own prospects of doing well, demands his presence, was then disposed to accept the 500 Rds., if paid without further delay, although he is prepared with oral proof and written documents to shew that Two Thousand Rixdollars would not cover his damages Costs &c.

Your Memorialist hopes Your Excellency will be graciously pleased to do his case that Justice it deserves, and prevent the necessity of his following up his acknowledged claim through the public Courts of Justice, and thereby afford him the means of returning to his Native Land and the bosom of his family.

And your Memorialist will ever pray &c.

(Signed) BENJAMIN WILMOT.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 26th April 1824.

MY LORD,—I have the honor to acknowledge the receipt of Your Lordship's Despatch (circular) under date of the 30th April 1823, and in compliance with the directions therein contained, to transmit to your Lordship Returns of the Revenue and Expenditure, Civil Establishments, Population, Exports and Imports and Currency &c. of this Colony for the Year 1822, Duplicates of which will be forwarded by the first opportunity.

The minuteness of detail, and the constant necessity of reference to distant authorities, which were essential in the compilation of the additional Returns, to which Your Lordship called my particular attention, have alone prevented the completion of these Documents within the period prescribed by

Your Lordship ; but I am satisfied that all possible expedition has been used in preparing them, and that they contain the most accurate information on the subjects which required elucidation. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Copy.]

*Letter from MR. WILLIAM EDWARDS to the JUDGE IN APPEAL,
with LORD CHARLES SOMERSET'S comments on it.*

25 LONG MARKET STREET, 26th April 1824.

MY LORD,—I am retained by Mr. Richard Stone to present a Statement and take depositions of persons to substantiate by way of impeachment before the House of Commons against you for your recent judgment in his suit with your former servant and present dependant James Payne.*

Altho' I will never do an uncandid thing (nor a severe one whilst other measures may be open), yet I will never shrink from the performance of my professional Duty, however great may be the danger or exalted the object of my attack.

I therefore write to say that if Mr. Stone is indemnified from the illegal Sentence and interference of the Court of Appeal, I shall have discharged my duty, which is my first object, and shall not speak any more on the Subject.†

But if he is not so indemnified I must and will proceed in a way which will give you some trouble, so I pray you consider My Lord what will be said when your Language to Mr. Stone about your Stud, your threatening Language against him twice on the Race Course at Wynberg and once at the Cape Town Races in the presence of many persons four years ago is repeated.‡

Your expressions when this case commenced soon after, and also when his appeal was allowed to you contrary to the Colonial Laws, which you “ever considered it your first duty

* In cases of appeal I recognise neither names nor persons, I only know the Appellant and Respondent.

† A pretence to extort Money.

‡ Four years ago I was in England;

to act in obedience to and support of," and consider My Lord what will be said when so decided a proof of your countenancing the hiring of Prize Negro Slaves is exhibited by me, and before I proceed let the matter be rectified, for if I am necessitated to perform a disagreeable duty this affair will produce more mischief than you have yet seen.*

I shall expect an answer to-morrow, or I shall the following day take the deposition and prepare the impeachment and petition for Mr. Stone. I have &c.

(Signed) WM. EDWARDS.

* The Secretary of the Court in laying the case before me informed me that it was admissible by Law and deduced precedents in favor of that opinion. This was not a question before my Court, it was decided by the Court below, and not objected to by the Respondent's Counsel. A Repetition of a threat to extort money: (Signed) CHARLES HENRY SOMERSET

Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 28th April 1824.

MY LORD,—I transmit herewith for your Lordship's Information a Copy of a letter which has been received from the Secretary to the Board of Treasury, covering two Reports from the Comptrollers of Army Accounts on Statements received from Assistant Commissary General Hewetson of the amount of Disbursements incurred and supplies furnished by the Commissariat Department on account of your Lordship's Government, since the year 1817, and which appear to exceed the sum of three hundred and ten thousand Rix Dollars; and with a view to the prompt repayment of these disbursements to the Military Chest, I have to instruct your Lordship to take measures for the examination of the accounts, and to direct that such surplus Revenue as there may exist from time to time in the Colonial Treasury be paid over to the Commissariat Department. I have &c.

(Signed) BATHURST.

[Copy.]

Letter from the Assistant Secretary to Government to the Fiscal.

COLONIAL OFFICE, 28th April 1824.

SIR,—I am directed by His Excellency the Governor to transmit to you two Letters (enclosed herewith) addressed to His Excellency by Mr. Wm. Edwards, a Notary Public at this place, under date 22nd and 26th instant, and to request that you will adopt such measures with respect to the Contents of those Letters, as the Law may direct. I have &c.

(Signed) P. G. BRINK.

[Copy.]

Letter from the Landdrost of Albany to the Colonial Secretary.

GRAHAM'S TOWN, 28th April 1824.

SIR,—In reply to your letter of the 20th September 1822, transmitting by direction of His Excellency the Governor for my report thereon a Copy of a Memorial from Messrs. J. and B. Wilmot, stating that Six Head of Cattle belonging to them out of eighteen which had been impounded had been lost from the Pound at this place, and requesting compensation for their value and the loss of their work, I have the honor to state for the information of His Excellency that having made very strict and special enquiry into the circumstances stated by Messrs. Wilmot, I find their statement to be correct, and that they have been considerable sufferers thro' the neglect and misconduct of the Undersheriff, for which I consider them entitled to compensation.

I have the honor therefore to submit to His Excellency that Messrs. Wilmot should be reimbursed the value of the oxen and compensated for the loss of their work, which I consider cannot be estimated at a less Sum under all the circumstances of the case than Five Hundred Rix Dollars, for which amount I trust His Excellency will be pleased to order a Warrant to be prepared in favor of Messrs. Wilmot, to be reimbursed by the Undersheriff or other Officer thro' whose neglect, if such should appear to

the Board of Landdrost and Heemraden who are now investigating that point to have been the case, the loss had been occasioned.

With regard to the complaint of Messrs. Wilmot of the insufficiency of Rations issued to them, I submit that it does not require His Excellency's consideration. I have &c.

(Signed) HARRY RIVERS.

[Original.]

Letter from GEORGE HARRISON, ESQRE., *to* R. WILMOT
HORTON, ESQRE.

TREASURY CHAMBERS, 29th April 1824.

SIR,—I am commanded by the Lords Commissioners of His Majesty's Treasury to acquaint you for the information of Earl Bathurst that my Lords having some time since required an explanation from Lord Charles Somerset in regard to certain Government Slaves at the Cape of Good Hope, have recently received from him the Papers Nos. 1, 2 and 3, of which copies are transmitted, containing List of those Slaves together with an Extract of a Dispatch from Lord Caledon to His Majesty's Secretary of State for the Colonies, dated 25th July 1807, explaining the manner in which those Slaves were employed when the Colony was under the Dutch Government, and which appears to have been entirely of a commercial Nature, as the Slaves then belonged to the Dutch East India Company. From an inspection of the manner in which those Slaves are now employed my Lords entertain great doubts whether their Services are of such a nature as to justify the expence attendant upon their maintenance, and under this impression their Lordships request you will move Earl Bathurst to favor them with His opinion whether the Public Service at the Cape would be likely to suffer any inconvenience from the breaking up the Establishment of the Government Slave Lodge, and if that measure should be determined upon, in what manner it would be most advisable to dispose of the Slaves. I am &c.

(Signed) GEO. HARRISON.

[Copy.]

*Letter from the Acting Colonial Secretary to the Colonial
Medical Inspector.*

COLONIAL OFFICE, 30th April 1824.

SIR,—I am directed by His Excellency the Governor to acknowledge the receipt of your letter of the 16th Instant describing the wretched and appalling state in which you found two Prisoners in the Tronk on your late visit to that place, and I am to request that you will be pleased to make occasional visits to the Prison and to the Somerset Hospital, and report upon the same for his Excellency's information.

I have &c.

(Signed) P. G. BRINK.

[Copy.]

Letter from the Acting Colonial Secretary to the Fiscal.

COLONIAL OFFICE, 30th April 1824.

SIR,—The Colonial Medical Inspector having represented to His Excellency the wretched and appalling state in which he found two prisoners in the Tronk on his late visit to that place, His Excellency has in consequence instructed that officer to make occasional Visits to the Prison and to the Somerset Hospital, and to report upon the same for His Excellency's information, and His Excellency desires that you will cause separate accommodation to be provided for the Sick at the Prison and thereby secure to them that comfort which in their helpless condition they so much require. I have &c.

(Signed) P. G. BRINK.

[Copy.]

Letter from the Acting Colonial Secretary to the Burgher Senate.

COLONIAL OFFICE, 30th April 1824.

GENTLEMEN,—I am directed by His Excellency the Governor to acquaint you that he has instructed the Colonial Medical Inspector to make occasional visits to the Somerset Hospital and report upon the same for his Excellency's information, and I am to desire that every facility may be afforded to Dr. Barry in the execution of his Instructions on this subject.

I have &c.

(Signed) P. G. BRINK.

[Copy.]

Letter from MR. F. G. FAREWELL to LORD CHARLES SOMERSET.

CAPE TOWN, May 1st 1824.

MY LORD,—In consequence of your Lordship's wish that I should communicate in writing my plans relative to the speculation I am at present undertaking to the South East Coast of Africa I beg leave to submit the following Remarks for your perusal.

Having felt convinced that a trade might be established with the Natives on the Coast between the Cape Frontiers and Delagoa Bay, I last year went to a considerable expence in trying to form an intercourse as well as to ascertain the Capabilities of the Country, but in consequence of its being a dangerous Coast and our having four men drowned in attempting to land, as well as want of provisions, after a four months' absence we were obliged to return without accomplishing our object and in consequence of chartering two Vessels for the occasion sustained a most considerable loss.

Towards the conclusion of my last voyage we found a Port where a small vessel can be perfectly secure, and I am therefore induced to venture another trial, hoping that by making some

stay there, we might get the Natives to bring their produce to Exchange for our goods, and which in time might lead to important advantages.

My intentions are to keep a vessel constantly laying in port and to have a small party on shore, for the purpose of communicating with the Interior and carrying on the trade. The Natives have already requested that we would come and traffic with them, and probably by a constant Intercourse we shall eventually lead to a commerce of Importance to the Colony and advantageous to ourselves.

For the purposes I have mentioned it is necessary that we should take a larger proportion of people than are required for the navigating the Vessel, and consequently we have about twenty-five persons including principals and servants besides her Crew.

I hope your Lordship will conceive that our present undertaking is entitled to every encouragement, being one of much hazard, and if successful likely to lead to important advantages to the Colony in furnishing Articles of Export as well as new Sources of trade and tending to the civilization of many populous nations hitherto unknown to Europeans. I am therefore convinced from your Lordship's well known desire to improve the resources and prosperity of the Colony that in case of our having to solicit your aid on any future occasion to forward these views we shall meet with that patronage and assistance that has always distinguished Your Lordship's Government.

I have &c.

(Signed) F. G. FAREWELL.

[Original.]

Letter from the REVEREND W. DAKINS *to* SIR HERBERT TAYLOR.

CHAPLAIN GENERAL'S OFFICE, 4th May 1824.

SIR,—The accompanying letter and enclosure of a copy of a letter written to Major Somerset was received this morning at the Chaplain General's Office, from the Reverend William Geary at Graham's Town, Cape of Good Hope.

Under the general instructions which I received from my superior, I am authorized to act in matters relating to this Office from my own discretion, and that, I trust, will serve as an apology on this occasion.

In reference then to the subject of Mr. Geary's statement, it would seem that cognizance cannot be taken of it by the Chaplain General, but under the command of His Royal Highness the Commander in Chief, and for this reason.

The Rev. William Geary is not a Chaplain to the Forces, but probably an officiating Chaplain to the Troops stationed at Graham's Town, employed by permission of the Governor of the Cape of Good Hope under the sanction of my Lord Bathurst.

He may be the Colonial Chaplain, and called upon to assist the Reverend Thomas Ireland, Chaplain to the Forces at the Cape.

This fact may be soon ascertained, and reference had to the Chaplain of the Forces, or to the Governor, in conformity with the pleasure of H.R.H. The Commander in Chief, on the subject of Mr. Geary's complaint.

When, Sir, you have submitted the enclosures to H.R.H. you will have the kindness to notify to this Office the Commands of H.R.H. thereupon for the direction of the Chaplain General.

I have &c.

(Signed) WM. DAKINS, Ass. Chap. Gen.

[Copy.]

*Appendix to the Memorial of the REVEREND WILLIAM GEARY,
with LORD CHARLES SOMERSET'S Comments upon it.*

GRAHAM'S TOWN, May 4th 1824.

That Your Excellency's Memorialist since writing the previous pages of his Memorial despatched on the 20th April last, has understood that your Lordship's consent has been procured for Mr. Daniel Cloete, a Dutch Gentleman and the late appointed Secretary for this English District, to possess a considerable farm, and bearing in mind that your Excellency's avowed maxim in the administration of your Legislative

Authority is “*audi alteram partem*,” your Memorialist feels encouraged to submit to your Excellency whether his claims to a Farm are not at least equal to that Gentleman’s. Mr. Daniel Cloete has been on the frontier a little more than 2 months, with a Salary encreased from *One to Three Thousand five Hundred Rix-dollars* ; while Memorialist has remained on the same spot more than a whole year in the constant and *laborious* discharge of his clerical duties. Your Memorialist (without meaning to cast the slightest imputation on the Office or Character of the Secretary) feels no hesitation in declaring (from the fact of his never having been educated to the profession of the Law) that he must be totally unacquainted with those legal duties which now devolve upon him, in conducting an office so important as that of Secretary to the Albany District ; while Memorialist trusts that he is neither ignorant of, nor remiss in the discharge of the duties of his profession. The Secretary is a single man, your Memorialist has a Wife and family of young Children. The Secretary is surrounded by 3 or 4 Acres of Land, besides an excellent Garden, the best planted perhaps of any in the District ; your Memorialist has expended 3000 Rix-dollars on a Government House to make it suitable for his family, and has had no land whatever assigned him, excepting an unfenced Garden overspread with weeds and containing but two wild fruits of not the Smallest value. That your Memorialist, besides the expences he incurred in improving his Residence, has laid out a considerable Sum on the aforesaid garden, in the wages of his Gardener for 8 months at 2 Rds. per day to clear it from the Rubbish with which it was covered ; and after bringing it into some tolerable order, it has become a prey to his *agreeable* Neighbour’s Cattle and Pigs, neither can he obtain for its irrigation a single drop of the water that is appropriated to the Inhabitants of the Town, though Wathall on one side of him (the man who has been encouraged to insult him) obtains it 3 or 4 times a week, and frequently a whole day and night together, and his neighbour on the other side, the Keeper of a Public House, (and of a whole Tribe of pilfering Hottentots that are continually carrying away Memorialist’s partial fence and forming Gaps for the admission of Cattle) can procure even more water than he wants, which induced

Memorialist, some months ago, to apply to Mr. Rivers, the Landdrost, for a more *fair* and equal distribution thereof ; but so far from obtaining any redress, Memorialist did not receive even an *answer* to his application. A great part also of this Garden the Landdrost has informed Memorialist will be taken from him, to form a public street, while the Secretary's House, from its detached, secluded and quiet situation, and presenting no means of annoyance from a disagreeable neighbourhood, would release a Clergyman from the necessity of litigating or making complaints, a conduct which he feels persuaded would have so impeded his usefulness that he has *never on any occasion* either impounded his neighbour's Cattle or required the amount of damages which has so frequently been done him by the trespass, nor even preferred a *single complaint* against *any* Individual for an injury of a private nature (though he has abundant cause for so doing) yet he thinks it extremely hard, when the means of redress are so reasonable, easy, and obvious, and in fact pointed out by Earl Bathurst in the letter which he had the Honor of delivering to your Lordship, that they should be withheld.

That the application of your Memorialist for (what he must be permitted to call) the Parsonage House (and to which as long as he continues in the Colony he cannot renounce his claims) should be refused, because he has not in obedience to your Lordship's injunction made such a compromise of his honour or committed such an act of hypocrisy as to make a reparation to Mr. Rivers, the Landdrost of Albany, for having been injured by him, is rather extraordinary, a man whom Memorialist never offended, of whose conduct he has abundant cause of complaint, whose character it is *impossible* to esteem, and whose extreme culpability as a Magistrate Memorialist conceives *must* become the subject of *Parliamentary censure* ! It is true, your Excellency offered Memorialist the House in question some time ago ; but it was after he had expended the Sums of Money before stated in improving his present residence, before Wathall, his next door neighbour, had begun to insult him and make himself that nuisance which his immediate vicinity so readily affords him the means of doing, (and which made Commissioner Bigge exclaim it was cruel for a Clergyman to be thus *elbowed*), at a time too when Memorialist

had received no answer to his application for a Farm (a refusal to which he had never anticipated), and whose grant would in a great measure at *that period* have compensated the want of Glebe Land.

That your Memorialist, after being refused a Farm, applied to your Excellency for annexing to the Chaplaincy a small piece of Land contiguous to, and not so large as his Garden, in consequence of its having been offered for sale (and which has since become a private purchase), but receiving no answer from your Excellency, Memorialist was induced to apply to Mr. Rivers for the aforesaid Parsonage *before* it was appropriated, and received the following answer :

GRAHAM'S TOWN, November 6th 1823.

“DEAR SIR,—On your declining the offer of the House late belonging to Captain Trappes, I communicated your decision to Lord Charles, who has since directed me to appropriate it to the Secretary of the District. I shall however represent your wishes to his Lordship, and *shall be happy to find them acquiesced in!* I am, dear Sir, &c.

(Signed) HARRY RIVERS.

But Memorialist having before had experience of Mr. Rivers' *forgetfulness*, judged it prudent to apply to your Lordship for the aforesaid Parsonage in the following terms :

GRAHAM'S TOWN, November 11th 1823.

“MY LORD,—I have the honor to acknowledge your Lordship's Letter of the 1st Ultimo, and exceedingly regret that I should have the misfortune to have incurred your Lordship's displeasure, since I can truly say nothing was further from my intentions than to shew the slightest disrespect to any of the authorities constituting a part of your Lordship's Government. I should feel much obliged if your Lordship will allow me to accept your offer of the House lately belonging to Captain Trappes, for a residence, instead of the one that I at present occupy. I have stated my wishes on the subject to Mr. Rivers, who has the kindness to say he will represent them to your Lordship and shall be happy to find them acquiesced in. I have &c.

(Signed) WILLIAM GEARY.

To which your Lordship did Memorialist the honor to reply as following :

NEWLANDS, *November 21st 1823.*

MY DEAR SIR,—I had the pleasure to receive your letter of the 11th Instant yesterday, in reply to mine of the 1st October. As you assure me that nothing was further from your intention than to shew the slightest disrespect to any of the authorities constituting a part of my Government, I am concerned that you did not add that you had called on Mr. Rivers, and had offered that reparation to which I had observed his situation both as a Gentleman and a Magistrate entitled him. I trust it has been made ere now ; if not, I hope, permit me to say I *expect*, it will be made ! You have totally mistaken Mr. Rivers' character if you imagine it will not be cordially received. With respect to your change of House, I shall leave the matter to Mr. Rivers, as I cannot interfere if he has made any other arrangement, which it would be inconvenient to him to recall.

In answer to the above letter, Memorialist had the Honour of thus addressing your Excellency :

GRAHAM'S TOWN, *December 3rd 1823.*

MY LORD,—I have the Honour to acknowledge your Lordship's Letter of the 21st ulto. and beg leave to submit to your Lordship the enclosed Papers. Could I feel that I had given Mr. Rivers any just cause of offence, a sense of duty no less than my own inclinations would prompt me to make that reparation which your Lordship conceives he is both as a Gentleman and a Magistrate entitled to receive. But My Lord, in his judicial capacity he has certainly assumed an authority which Magistrates in England are not permitted to exercise over Clergymen, and which a sense of what I owe to my Office urged me to resist ; and again on my expressing my sentiments to him on his interference, I know not with what justice he can accuse me of wounding his feelings as a Gentleman. Your Lordship does not want to be informed that tho' St. Paul became all things to all men, yet even he declares "I magnify mine Office."

If I cannot preserve my independence as a Clergyman your Lordship must be aware that my usefulness is entirely at an end, for in preaching up submission to the higher powers,

which I have ever *zealously* and *conscientiously* done, what attention or respect can I command from my auditory if I am supposed to be any way in my exhortations or exercise of my Ministerial duties under the influence or control of the Landdrost? Mr. Rivers shelters himself under a mere *verbal* inaccuracy from a charge which was *substantially* correct. I acquit him of having used the words "I will give an *order* (for the parties to be married), but he certainly *did* say, My Lord, "I will give directions for its being done," (for I had it from the Gentleman to whom he made the declaration).

Hodgkinson was also told to come at any time. Now, Clergymen, My Lord, have ever had the right of appointing their own time. Mr. Rivers also declared to the same Gentleman that there should be a total revision of the Surplice Fees; and by that Regulation to which he has procured your Lordship's sanction, my Fees are nearly abolished. In drawing them up, My Lord, Mr. Rivers could have been guided by no experience; for when was it ever known that the Clergyman's Fees were reduced to a level with the Clerk's? And yet in *five* of the Items this is the case, and in *Three* of them the Clerk is remunerated for doing nothing, and being absent! for it is the Clergyman's sole province to write out the Certificates. Surely, My Lord, such Regulations must have been suggested by one who felt a pleasure in trying to injure and degrade a Clergyman!

I felt extremely hurt that your Lordship should deem my conduct reprehensible in making my charges under the guidance and authority of the secretary of the District, whose peculiar province it is to transmit to me notices of the *Marriage Bans* and the Marriage Licences, besides, being the only *legal Officer* in the District, it was perfectly natural in me to suppose that he was the most competent authority to refer to on the subject; and though his information was *verbally* communicated, it was not made in *private*, but at my House in the presence of Mr. and Mrs. Onkruydt and Mrs. Geary, who are all willing to attest the same, and taking Pen and Paper in their presence I wrote down the information from the Secretary's own mouth. Surely, My Lord, there was something in this rather more "formal than mere *verbal* communication!" And in the last Book which

is written on the Colony, and which report ascribes to Mr. Wilberforce Bird, 25 Rix-dollars is stated as the usual *Marriage Fee*. Indeed I cannot but persuade myself, My Lord, that it is one which people in general can best afford, and are least unwilling to pay. Hodgkinson was never refused by me to be married on a Sunday, nor indeed any Pauper, and had not *his* behaviour been *exceedingly* disingenuous and shuffling, he would never have been refused the gratuitous performance of the Ceremony on any day. For nearly a third of those whom I have united in Wedlock have been married gratuitously, and, indeed the greatest injury that I have sustained thro' life may be imputed to my having erred on the side of *liberality* ! so that, My Lord, (as was intimated in a former letter) there could have been no danger in entrusting a clergyman with a discretionary power on these points.

I have also to complain that Mr. Rivers solicited, and was guided by the advice of a *Dissenting Minister*, in establishing a school on the *Lancasterian plan* ! and persisting in this, contrary to my own protestations (by no means disrespectfully communicated) and accompanied by a printed discourse from the Bishop of Peterborough pointing out the vital importance both to Church and State of adopting the national plan. Mr. Shaw (the Dissenting Minister in question) told me himself that he felt a delicacy and scruple in giving the information Mr. Rivers requested to enable him to fit up the Schoolroom, and Mr. Shaw even begged, but in vain, that I might be consulted. It is true that in very lately doing away the Desks and substituting Forms, and admitting the Hottentot children (after Mr. Rivers declared he would not have a Hottentot Child in the School) an approach has been made to an Institution on *Doctor Bell's plan* ; but a very needless expence has been incurred ; and even the merit of the alteration is entirely due to your Lordship's instructions. The mischief however has had its effect, and is still operating, for in consequence of Mr. Rivers soliciting, and acting on, the advice of Mr. Shaw, the Dissenters have been emboldened to take advantage of it, for they at this moment employ coercive methods to keep the pupils of this school from attending the Service of the Established Church, and are encouraged by their Minister. For when Howard, in the mildest way possible, complained on the

subject to Mr. Kay (another Dissenter and the Coadjutor of Mr. Shaw, the latter having gone into Cafferland) he became irritated, called him a Bigot, and declared that the Children should not attend on the Sundays at the *Established Church* (an essential regulation in all Dr. Bell's Schools) but at their own *Meeting*, unless he had a written order from Mr. Rivers, because he was sure the Landdrost was too much their friend ! to injure their Sunday School.

I directed Howard, My Lord, to complain to Mr. Rivers on the subject, which when he did, he was required to send him a written representation of the fact. This was also complied with, but the Landdrost says that he is too much engaged to read Howard's Document!! and thus the mischief still remains unredressed !

Wathall, a man, My Lord, whose character is notoriously infamous, has not even been suspended from his Office since my two complaints against him, and the most active endeavours are made to screen him from Conviction and punishment. Mr. Hart, the superintendent of the Government Farm, has declared that this man deserved to be hung years ago. Your Lordship by and by will hear of his villanies, and be shocked that such a man should ever have been put into Office ! Had I given intimation, My Lord, in England to a Magistrate whose Office was more immediate to superintend any of the public prisons of such infamous proceedings within them as I have stated to Mr. Rivers, the most active steps would instantly have been taken to ascertain the accuracy of the information and to redress the evils complained of. I do believe, My Lord, that I should have received a letter of thanks for my intelligence, instead of seeing the thing hushed up ; evidence rejected, tampering with witnesses!! and every impediment thrown in the way of bringing the guilty to punishment ; and that under the plea of incompetency in the Court to try the case ; for it is well known, My Lord, that in the case of Stanley *versus* Mullegan, which was one of Defamation, the Board of Landdrost and Heemraden not only tried it, but awarded Damages, and not a month ago a Heemraad (Mr. Dietz) laid a case of defamation before the Court of Circuit, but it was referred back to the Board of Landdrost and Heemraden for their decision!!

If therefore, My Lord, serious injury in the reduction, I had almost said entire abolition, of those Emoluments which are the support of a *Clergyman with a Family*, and which in England preparatory to embarkation he was taught to consider as his due, deprived also of those advantages which the meanest Clerk in Office can obtain ! if *studied insult* to a clergyman of the Established Church ! as shewn in the above Statement and enclosed Papers needs *Reparation*, I will leave it to your Lordship to decide to whom it is due !

In respect to the House, My Lord, which you had the kindness to offer me twice before, I beg leave to remind your Lordship that I solicited it as a favor in my last letter. I am willing still to solicit it as a favor from your Lordship, and to accept it as a favor from yourself (notwithstanding my Official Letter from home declares I am entitled to Glebe Land), but I never can submit to ask it of Mr. Rivers.

In concluding this Memorial your Memorialist begs leave to remind your Lordship that up to the present date no punishment has been inflicted on Wathall (the late Undersheriff but now first Messenger in the Landdrost's Office), but (as Memorialist had already had the honor of informing your Excellency) his Majesty's Commissioner of Inquiry, Mr. Bigge, declared he ought to be punished, Memorialist therefore feels himself obliged to decline any further attendance in his professional capacity at the public Gaol until the Prisoners know that the Clergyman who officiates before them is not to be insulted with impunity by any of their Officers, far less rewarded as Wathall has been, by your Excellency, for such unpardonable misconduct.

(Signed) WILLIAM GEARY.

Comment. Mr. D. Cloete has never applied for a Farm, nor did I ever hear of it but from Mr. Geary's inventive Pen. What the Clergyman has to do with the District Secretary I know not, the Emoluments of the former Secretary were estimated, including fees, at 6000 or 7000 Rds. per annum, although the salary was only 1000. The salary of the present Secretary is fixed at 3500 Rixdrs., and the whole of the Fees are carried to Government.

Mr. Geary's Salary, before he rendered his dismissal from

the Military Chaplaincy necessary, might be reckoned at 5600 Rds. per annum, a House which he acknowledged in a letter addressed to me he preferred to any in Graham's Town, (kept in repair), and Garden and a Servant from the Army, exclusive of Surplice Fees.

The use of the Water is extremely well regulated in Graham's Town, and as Mr. Geary opposes all Regulations, of course the Quantum of water allowed him by the General Regulations of the Town affords him a topic for dispute.

My Letter of the 21st of November 1823 was written in consequence of Mr. Geary not having complied with my Recommendation that he would make some acknowledgement or reparation to Mr. Rivers for most indecorous conduct towards Him ; this recommendation on my part was expressed in a letter to Mr. Geary dated October 1st 1823, and which it appears Mr. Geary with his usual candour suppresses.

The rest of this paper contains such trash and falsehood as renders it too contemptible to comment on.

(Signed) CHARLES HENRY SOMERSET.

[Copy.]

Letter from MR. P. G. BRINK to F. G. FAREWELL, ESQRE.

COLONIAL OFFICE, 5th May 1824.

SIR,—I am directed by His Excellency the Governor to acknowledge his receipt of your Letter of the 1st Instant, and to acquaint you that His Excellency acquiesces in your taking the persons with you to the South East Coast of Africa whom you state to be necessary to prosecute your commercial undertaking there.

His Excellency will hear with great satisfaction that your endeavours to establish a commercial intercourse and lay the grounds for civilizing the Inhabitants of that part of South Africa have been successful, but His Excellency begs that you will clearly understand that all your intercourse with the Natives must be conducted in a conciliatory manner and upon

fair terms of barter and that he cannot sanction the acquisition of any territorial possessions without a full communication being made to Him of the circumstances under which they may be offered and be intended to be received. I have &c.

(Signed) P. G. BRINK, Assistant Secretary.

[Copy.]

Letter from the FISCAL to LORD CHARLES SOMERSET.

FISCAL'S OFFICE, the 5th May 1824.

MY LORD,—I do myself the honor herewith to report to your Excellency, that agreeably to the communication which your Excellency has been pleased to make me on the subject of Mr. G. Greig's deviations from the prospectus of his *South African Commercial Advertiser* I have acquainted Mr. Greig with your Excellency's directions, by telling him that he was to give security on or before Friday next in the sum of Ten Thousand Rixdollars, that in future in conducting the *South African Commercial Advertiser* the terms of his prospectus and memorial presented to your Excellency in July last, should strictly be adhered to, and by cautioning him at the same time not to allow the 18th number of his said paper to contain any matter not agreeing therewith, as otherwise the liberty hitherto allowed him to print the same would be withdrawn by Government, and his press locked up; I also signified to Mr. Greig that he was expected to exclude from his paper all publications of a scurrilous nature and not to insert therein the reports of trials before they should be finally concluded.

As the uncertainty what might be his intention in publishing or not publishing in his 18th number the trial of Mr. W. Edwards, which is now pending in the Court, did appear to me to render some precautionary measure necessary, I did not hesitate yesterday under your Excellency's sanction to require Mr. Greig to furnish me with a proof sheet of his 18th number, and to desire him not to allow the same to be struck off until he should have received my further directions thereon; this I was compelled to cause to be intimated to Mr. Greig by an

official Messenger, after he had been requested by me so to do by a note which however he considered inofficial.

The proof sheets which I had the honor this morning to forward to your Excellency having been perused by me, my assent to its being printed was signified to Mr. Greig, who thought proper afterwards to insert the advertisement whereby the provisional discontinuance of his paper has been notified to the public, and wherein I am sorry to find my conduct has been strangely misconstrued; it having been my only object in acting upon your Excellency's instructions, to remind the Editor of his engagement and not to suffer his paper which may be highly useful and entertaining, if conducted after the proposed plan, to degenerate into a pamphlet disseminating or discussing subjects of personal controversy, or relating to the Policy or administration of the Colonial Government.

I have &c.

(Signed) D. DENYSSEN.

[Copy.]

Letter from the FISCAL to LORD CHARLES SOMERSET.

STRAND STREET, 5th May 1824.

MY LORD,—I do myself the honor herewith to enclose the proof sheets of the 18th Number of Mr. Greig's *South African Commercial Advertiser* although I was not satisfied with the leading paragraph and still less with the advertisement of *fair play* and the translation of Lacon's Sentences, I did not think it requisite to interpose any act of authority, Mr. Edwards's long speech in the Court, nor any part of the proceedings in his case having been therein inserted.

I have &c.

(Signed) D. DENYSSEN.

[Printed Copy.]

Discontinuance of the "Commercial Advertiser."

Wednesday Morning, 1 o'clock, May 5, 1824.

His Majesty's Fiscal having assumed the Censorship of *The South African Commercial Advertiser*, by an Official Order, sent to the Printing Office by a Messenger late in the evening before Publication, Demanding *Proof Sheets* of the Paper for next day (this day), and prohibiting its being struck off "till we had received his further directions thereon,"—we find it our duty, as *British Subjects*, under these circumstances, to discontinue the Publication of the said Paper *for the present* in this Colony, until we have applied for redress and direction to His Excellency the Governor, and the British Government.

Our numerous Subscribers will, we trust, require no further explanation at present of this distressing interruption. They, and the rest of the world, shall be speedily put in possession of a full statement of all the facts:—one of which is a demand from the Fiscal of Two Securities, on or before Friday next, to become bound under a penalty of *Ten Thousand Rixdollars*, that nothing offensive shall appear in any future Number—such as Extracts from the experienced work of the Civil Servant, a work *Published* in this Colony, this year, by W. W. Bird, Esq. *Comptroller of Customs*, and *Assessor of the Court of Appeals*.

We will only mention farther, at present, that not a word of this our last Number has been written or altered in consequence of the above-mentioned transactions, excepting this Notice.

The Business of the Commercial Printing Office will be carried on as usual.

[Printed Copy.]

Letter from the Fiscal to the Editor of the Cape "Gazette."

CAPE TOWN, 5th of May 1824.

SIR,—Having perceived in the *South African Commercial Advertiser* of this day an assertion that I had demanded of the Publisher of that Paper to become bound under the penalty of 10,000 Rixdollars, that "nothing offensive should appear in any future Number," I feel myself called upon to disavow the use of any such terms or expressions.

It having become necessary in the execution of my public duty to require the Publisher of that Paper to bind himself under a penalty to adhere to the Conditions voluntarily proposed by himself, under which he solicited permission to publish, I made that simple requisition and no other.

I have &c.

(Signed) D. DENYSEN.

[Copy.]*Letter from LIEUTENANT COLONEL BIRD to J. T. BIGGE, ESQRE.*

LIESBEEK COTTAGE, 6th May 1824.

SIR,—Being still confined to my couch without the power of putting my leg to the ground, I have been under the necessity of making inquiry relative to the petitions of J. J. F. Maartens, from the Gentleman in whose department these papers are filed, and I have now the honor to report to you, in answer to your letter of the 21st of last month, that Maartens' two petitions of the 12th May and 22nd June 1821 were duly received, and are filed with other petitions for land in the Field Cornetcy of Sneeuwberg. I have to add that the Land Tenure in the Graaff Reinet District is in a more irregular state than in the other Districts, most of the land being held without title and without paying rent. It has long been an object to get this set right. The occupiers have been called upon therefore

to take titles to the Lands so occupied ; upwards of 1000 petitions are in consequence in the office. It was wished these should be examined into, measured and reported upon, Field Cornetcy by Field Cornetcy ; 133 petitions were accordingly sent to the Landdrost for lands in the border Field Cornetcies of Sea Cow River, Rhenoster Berg, and Winterveld, but up to this period Mr. Stockenstrom has only had it in his power to report upon 36 of these, the diagrams of which are in the Inspector's Office.

It will be obvious to you that until the first parcel is disposed of, it would only cause confusion to forward more applications to the Magistrate, or to send single petitions, when the number in the office leaves room to suppose that many interests may be materially affected in the consideration of each, besides which it is found to be inconvenient to the Magistrate to go into a distant part of his District for a single petition, and it is very expensive to the Individual, who must in such case bear the whole charge of examination and survey. I have &c.

(Signed) C. BIRD.

[Original.]

Letter from CLERGYMEN AT ABERDEEN *to*
ROBERT WILMOT, ESQRE.

ABERDEEN, 6 May 1824.

SIR,—We, whose names are subscribed, beg leave to request you will have the goodness to intimate to the Right Hon'ble Earl Bathurst, that Mr. Colin Fraser, who has already been honoured with his Lordship's sanction to prepare for discharging the duties of a Minister in the Reformed Church at the Cape of Good Hope, and has in that view been studying the Dutch Language in Holland, for several months, has now obtained Licence to preach the Gospel, according to the rules of the Church of Scotland.

We therefore take the liberty also to state, that as soon as it shall please His Lordship to honour Mr. Fraser with a Presentation to one of the Churches in the Colony, he will

immediately obtain ordination by our Church, and thus be in readiness to embark for the Cape. We are &c.

(Signed) JAMES ROSS, D.D., Senior Minister of
Aberdeen.
JOHN MURRAY, Minister of Trinity
Chapel.
JAMES BENTLEY, Professor of Oriental
Languages, King's College, Aberdeen.

[Original.]

Memorial of MR. JOHN BAILIE.

To the Right Honourable Lord Bathurst, &c., &c., &c.

The Memorial of Mr. John Bailie of the Hope, near Bathurst, in South Africa, Humbly presented by his Mother Anne Bailie, Sheweth

That your Memorialist is one of the first settlers who, confiding in the encouraging hopes held out to him, went out to Algoa Bay, having given up a good situation in the year 1819; and proceeded thither accompanied by his wife and family which consists of five Children.

That your Memorialist has used every means in his power to cultivate and improve the ground of his location without success, from the great scarcity of water nothing will thrive even in a Garden, unless near a river, and that his Farm is situated ten miles from any river, every attempt at agriculture has therefore proved totally abortive.

The intention of making this an agricultural district having completely failed, it can only be a grazing one, and it remains yet to be seen, whether it can be, from its rivers, a commercial one. Your Memorialist is anxious to use his humble endeavours to that end, and is therefore desirous of obtaining an Erf of Land at the Kowie river, and an extension of his private grant of land from 1000 morgen which it is now, to 2000, as there is plenty of vacant land that he can point out. Or your Memorialist would rather prefer the grant of such land as has been vacated by his party, as he is given to understand that

Government is going to resume all the vacated land on this location.

To your Memorialist it would be an Object, to Government it can be none. Your Memorialist has not yet received his title to his present grant, so that he may say even that it is not secured to him, it was granted by Sir Rufane Donkin. In the hope that his request will be under all the circumstances of his case deemed reasonable, your Memorialist shall ever pray.

(Signed) ANNE BAILIE.

May 6th 1824.

7 UPPER BERKELEY STREET, PORTMAN SQUARE.

[Printed Notice.]

Notice to the Public.

COMMERCIAL PRINTING OFFICE, 30 LONGMARKET STREET,
CAPE TOWN.

On Wednesday next, a Paper, containing only Advertisements, will be published at the above Office, and forwarded, for the accommodation of our Commercial Friends, to the Subscribers to the *South African Commercial Advertiser*, at present suspended on account of the Fiscal's attempt to assume the Censorship of it !

May 8, 1824.

[Printed Copy.]

"Audi Alteram Partem."

On Monday Morning at Eight o'Clock, will be published, Facts Connected with the Stopping of the Press, and the Censorship of the Fiscal.

May 8, 1824.

SOUTH AFRICAN *Commercial Advertiser* OFFICE,
No. 30 LONGMARKET STREET.

[Copy.]

Letter from the FISCAL to LORD CHARLES SOMERSET.

FISCAL'S OFFICE, the 8th May 1824.

MY LORD,—I am under the necessity to report to your Excellency that this morning about ten o'clock, I was surprised to see from the window of my apartment in the Office two persons in the act of fixing on the opposite Wall, a notice whereof I have the honor herewith to annex a copy numbered I. I was soon afterwards informed that another advertisement whereof I also have the honor herewith to annex a copy numbered II, was stuck up at different places in the streets in Cape Town.

Mr. Greig the publisher of these Advertisements having been sent for by the Deputy Fiscal and cautioned to discontinue spreading the same, declined to obey this order, and even has resisted one of the Police Officers in the act of taking off the same.

Under these circumstances I feel it imperative on me to request your Excellency's commands whereby I may be enabled most effectually to stop the irregularity at present going on.

In case Your Excellency may be pleased to order the commercial press to be stopped, I will not lose time to give information thereof to the Chief Justice, and to request a Judicial Committee in order to accompany me on the occasion.

I have &c.

(Signed) D. DENYSSEN.

[Copy.]

Warrant for the Suppression of the "South African Commercial Advertiser."

By His Excellency the Right honourable General Lord Charles Henry Somerset, one of His Majesty's most honourable Privy Council, Colonel of His Majesty's 1st West India Regiment, Governor and Commander-in-Chief of His

Majesty's Castle, Town, and Settlement of the Cape of Good Hope in South Africa, and of the Territories and Dependencies thereof, and Ordinary and Vice-Admiral of the same, Commander of the Forces, &c. &c. &c.

Whereas George Greig, by special permission of His Majesty's Government, Printer of the *South African Advertiser* in this colony, has not only openly transgressed the conditions under which such permission has been granted to him, but has moreover wantonly and seditiously persisted in doing so after having been warned by His Majesty's Fiscal, and in the name of the colonial government been required to give security for the due observance of the said conditions :

Therefore, and in order to prevent the evil consequences which from any further forbearance might accrue to the peace and tranquillity of the colony, you are hereby authorized and directed, with the assistance of a commission from the worshipful the court of justice, to repair to the printing office of the said George Greig, No. 30, Long-Market-street, and there, in the name of His Majesty's Government, to prohibit the said George Greig continuing to act as printer of the *South African Commercial Advertiser* ; and further, in the presence of the said commission, to seal up all and every press or presses of him the said George Greig, in order to remain so sealed up until His Majesty's pleasure shall be known :

And whereas the present conduct of the said George Greig has proved subversive of that due submission to the lawful commands of the constituted authorities in this colony, without which peace and tranquillity cannot remain undisturbed, you are further authorized and directed to notify to him, the said George Greig, that he is to leave the colony within one month from the date hereof, and that in default of so doing he shall be arrested and sent out of it by the first suitable opportunity.

Given under my hand and seal this eighth day of May, one thousand eight hundred and twenty-four.

(Signed) CHARLES HENRY SOMERSET.

By His Excellency's command,

(Signed) P. G. BRINK, Asst. Secy.

To D. Denyssen, Esq., His Majesty's Fiscal.

[Copy.]

*Letter from the Secretary of the Matrimonial Court of Albany
to the Landdrost of Albany.*

GRAHAM'S TOWN, 8th May 1824.

SIR,—In reply to your enquiries as to the fees charged for the Registry of Marriages in Albany, and the application of the amounts received, I have the honor to acquaint you that the amount charged by me to each party appearing before the Matrimonial Court is Rds. 5 4sks. 3sts.

	Rds.	sks.	sts.
The established fee, which is carried to the District Chest . . .	5	0	0
Stamp and Opgeld for Certificate of the party having passed the Court and authorising marriage	0	4	3
	<hr/>		
	Rds.	5	4 3

This charge is however in some instances remitted, when the parties represent their inability to the satisfaction of the Court.

But with regard to your enquiry whether a Sum of Ten Rix-dollars has been heretofore exacted, and how that money has been applied, I regret to say I cannot afford the information required, as there are no papers or Documents in the Records of the Matrimonial Court by which I can ascertain, whether such Sum has been formerly received, even had such amount been carried to the Credit of the District Chest. I have &c.

(Signed) DANIEL J. CLOETE,
Secretary Matrimonial Court.

N.B. A Stamp of Two Skillings was used for the Certificate from the Matrimonial Court previously to the Publication of the Proclamation of the 30th April 1824.

[Copy.]

*Letter from the Landdrost of Albany to the Assistant
Secretary to Government.*

GRAHAM'S TOWN, 8th May 1824.

SIR,—I have the honor to acknowledge the receipt of your letter of the 30th Ult. informing me, by order of His Excellency the Governor, that in a Memorial which His Excellency had received from the Revd. Mr. Geary, that Gentleman, among other things, asserts that he had incurred the displeasure of His Excellency for no other cause than resisting the unjust attempts of myself to deprive him of the Surplice fees, contrary to those instructions which he knew had been forwarded to His Excellency from the Right Honorable Earl Bathurst, the circumstances of which you state Mr. Geary thus states : “ An application was made for the gratuitous performance of the marriage ceremony in favor of a certain couple, when Mr. Rivers declared *he would give directions for its being done*, and *pauperism* in the Parties was the ostensible plea urged by him for his interference, but he (Mr. Geary) having discovered that Mr. Rivers permitted the Secretary of the Matrimonial Court to exact of *those very persons* the whole amount of its accustomed fee of ten Rixdollars, he refused to comply with the application of the Landdrost made for that purpose ” ; and I have the honor to state, for the information of His Excellency in reply to Mr. Geary's assertions, that I never declared or said to any person that I would give directions for the gratuitous performance of the Marriage Ceremony in favor of the couple alluded to by Mr. Geary, and that when I requested the gratuitous performance of the ceremony the Pauperism of the parties in question was the plea urged by me, and was the real and only motive I had for interference by requesting Mr. Geary to marry them gratis. I have the honor also to state that I never granted permission, or authority, to the Secretary of the Matrimonial Court to exact or receive from those or any other persons the fee of Ten Rixdollars, and further that I have no knowledge of such Sum having been exacted or received, as no such amount has been accounted for by the Secretary, by whom only fees are charged and received. I have made a

reference on this subject to the present Secretary of the Matrimonial Court, a Copy of whose Reply I have the Honor to annex.

In explanation of the circumstance which appears to have given rise to Mr. Geary's complaint and charge against me, I have the honor to transmit a Copy of a Memorandum thereof, taken at the time of his refusing my request for the gratuitous marriage of G. Hodgkinson, and of my correspondence on the occasion with Mr. Geary, which from motives of delicacy towards him as the Chaplain of my District, I was induced, notwithstanding the uncourteous language employed by Mr. Geary, and the general dissatisfaction created by his refusing to marry persons unless they should first pay a heavy fee, for which I could find no authority, to withhold from official representation.

A perusal of Mr. Geary's Letters to me will shew that other and different motives than that now stated in his Memorial to His Excellency had induced his refusal and influenced his conduct, and that his assertion of my having said I would give directions for the gratuitous performance of the Ceremony, is unfounded, while I request permission to state that no application, reference or Communication, was ever made to the Matrimonial Court or to myself as to the payment of the Fees to the Secretary by Hodgkinson, of whose poverty I was totally uninformed until the difficulty and refusal of performing the marriage ceremony were told to me. I am not aware of what Instructions may have been forwarded by Earl Bathurst relative to Mr. Geary's Surplice Fees, but I have not received any other communication relative thereto than that contained in the Colonial Secretary's letter dated 2nd October last. I trust therefore it will appear to His Excellency that Mr. Geary's charge of my having made unjust attempts to deprive him of his Fees, and of my having sanctioned an improper exaction of Fees by the Secretary of the Matrimonial Court, is totally unfounded. With regard to the circumstance of Mr. Geary having, as he states, incurred the displeasure of His Excellency I cannot presume to be acquainted with it. I have &c.

(Signed) HARRY RIVERS.

[Copy.]

Letter from the FISCAL to LORD CHARLES SOMERSET.

CAPE TOWN, 9th May 1824.

MY LORD,—I do myself the honor herewith to report to Your Excellency, that Your Excellency's Warrant prohibiting Mr. George Greig continuing to act as Publisher of the *South African Commercial Advertiser*, and ordering his presses to be sealed up, and further authorising me to notify to Mr. Geo. Greig that he is to leave the Colony within one month from the date of your Excellency's said Warrant, has been duly executed this afternoon in the presence of a Judicial Committee which consisted of the Members of the Worshipful Court of Justice Messrs. Neethling and Truter assisted with the Secretary. I have &c.

(Signed) D. DENYSSEN.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 10th May 1824.

MY LORD,—I have the Honor to transmit to your Lordship copies of a communication from Mr. F. G. Farewell, relative to a commercial Speculation he is about to enter into, on the South East Coast of this Continent, with my reply thereto; the terms of which I trust will meet with Your Lordship's approbation. Mr. F. G. Farewell is represented to me as a Person of respectability, and I understand possesses some Capital. I have &c.

(Signed) CHARLES HENRY SOMERSET. 3

LOR.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 10th May 1824.

MY LORD,—I do myself the honor to state to your Lordship that in the Month of January last, I acceded to the Memorial of a person named George Greig, who arrived here in March 1823, to print a Weekly Paper called the *South African Commercial Advertiser* under the conditions and restrictions proposed by him in his Memorial and Prospectus.

I have now the honor to report that the tone of the *South African Commercial Advertiser* has at no time been strictly accordant with the conditions expressly stated in the Documents above alluded to, as your Lordship will perceive by the Copies I have the honor to transmit, those of the 7th and 21st of April particularly. It therefore became my duty to direct his Majesty's Fiscal, on the 3rd instant to require of the said George Greig to bind himself under a Penalty of 10,000 Rix-Dollars to adhere to the conditions of his Prospectus and unless given by Friday the 7th inst. to stop the Press until the said Bond should be given, and meanwhile to require to see the Proof sheet of the Paper intended for Publication on the 5th instant.

Annexure No. 4 is the Fiscal's report, No. 5 the Proof Sheets, and No. 6 the Paper as it appeared, in which your Lordship will perceive a wilful misstatement of the Fiscal's communication with the Printer. The 7th instant passed without the required Security being offered or noticed, and on the 8th instant H.M.'s Fiscal availed himself of the Publication of the *Government Gazette* to insert George Greig's Memorial and Prospectus and to correct the misstatement which had appeared in the *South African Commercial Advertiser* on the 5th inst. The Enclosed Placards (Annexures 8 and 9) were posted that having been after the circulation of the *Government Gazette*. No. 10 I cannot v of the Report made to me by H.M. Fiscal. No. 11 Authority with which I felt it my duty, after having Chief Justice's Opinion upon the Legality of the at H.M. Fiscal in virtue of the 29th Article of

His Majesty's Instructions to me as Governor of this Settlement, and No. 12 Copy of the Report of H.M. Fiscal thereon.

It is matter of deep regret to me, My Lord, that a measure which I had hoped and anticipated would have contributed to the Instruction and Improvement, as well as to the amusement of the Community here, has been converted to factious and mischievous purposes by the artifices of a few restless and disloyal men who have no permanent Interest in the Colony. I trust however that persons of different views and character may be found who will be willing to revive an undertaking of this nature with no other views than to render it beneficial and instructive. Meanwhile the Community here is not deprived of the Convenience of a Public Press, as, exclusive of the Government Weekly Paper, the *South African Journal* under the direction of Messrs. Pringle and Faure, continues to be published every two months. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Original.]

Letter from SIR HERBERT TAYLOR *to* R. WILMOT
HORTON, ESQRE.

HORSE GUARDS, 10th May 1824.

SIR,—In transmitting to you the accompanying Letter and enclosures from the Assistant Chaplain General, I am directed by the Commander in Chief to request that you will acquaint me, for His Royal Highness's Information, whether the Reverend Mr. Geary holds any appointment as Chaplain to the Troops at the Cape of Good Hope on the Colonial Establishment, or whether any report respecting him, or the Transaction herein represented, has reached Lord Bathurst. The Enclosures to be returned. I have &c.

(Signed) H. TAYLOR.

[Original.]

Letter from MR. THOMAS PHILIPPS *to* R. WILMOT
HORTON, ESQRE.

LAMPETER NEAR BATHURST,
CAPE OF GOOD HOPE, 10th May 1824.

SIR,—My Relative, Mr. Harris, of Bernard Street, forwarded to me copies of the correspondence with which you honored him in the months of September and October last, and in consequence of the directions which you were pleased to state to have been forwarded to His Excellency the Governor of this Colony, I immediately applied for an additional farm, a period however of 4 months has elapsed and no definitive answer has been given ; I have now completed 4 years on the spot which was appropriated to me, I have cultivated on an extensive scale each year, and each year have been disappointed, reaping only a little barley and Indian corn, not sufficient even for the consumption of my family. My returns of corn ought to have averaged me £400 per annum, instead of which they have not produced me £20. With these losses and of course diminution of my capital, it cannot appear surprising that I should wish to fly from the scene of such misfortunes, and that I should endeavour to invoke the aid of the more certain *agricultural* soil and climate of Van Dieman's land, as my Lord Bathurst, however, anxious for our well doing in this Colony, has given directions that we should have additional farms to enable us to turn our attention to grazing, I have hitherto continued patient, but I must beg leave to remark that if the Land I have now applied for is not granted to me, there is not another spot in the whole District of Albany (unasked for) worth applying for, the Country ceded by the Caffres, at present called neutral, being the only unoccupied land. It will be improper that I should take up more of your time in expatiating on this subject, and indeed, quite superfluous, feeling thoroughly convinced from the patient and indefatigable inquiry of His Majesty's Commissioners, that nothing involving the Interests of the Emigrants can have escaped them. A Period however has arrived which bids fair to brighten the prospects of the British Settler, they in general feel assured that their artificial obstacles

at least, will ere long disappear and by the encrease to their farms, they will be enabled to partake of the natural advantages of the Country, and at all events, be placed on a footing with the native Boors. Under this impression, I had the honor of a conversation with Mr. Bigge on the subject of the necessity of an increase of Labourers, deprived as we are (and very properly so) of the use of Slaves, and subjected to the present enormous wages of Europeans and even of Hottentots, the latter demanding cent per cent more than they were accustomed to. we cannot compete with our neighbours. As Mr. Bigge was pleased to say that he not only entirely concurred with me, but that he had also written to you on the subject, it is not necessary for me to enlarge.

As we fully trust therefore that we shall be allowed to have a portion of the Irish Labourers, for the transport of whom, an annual sum is voted by Parliament, we have agreed together on certain terms and on certain wages, as it is extremely desirable that those Persons should know before they embark what advantages they are to expect from emigration and thereby save themselves disappointments from erroneous expectations, we have also agreed on deputing some Person from this colony, or in England, to have the honor of conferring with you on the best method to be taken, for the mutual Interests of the Government the Labourer and ourselves. I am not at present aware of the exact terms on which those were engaged who lately arrived at Cape Town, but there is one objection urged against the mode of distributing the adults and their families, and which must be grating to their feelings, particularly in a slave country. that is the transfer of their Indentures for a *premium*. With boys and girls orphans, or who may have come out without their Parents, there might not be so much objection. The most advisable plan would be if Government would advance a certain sum per head for conveyance and victualling, and to include all expences till landed in Algoa Bay, or at Port Kowie, and the People to be delivered over without any stipulation of premium, to those who will engage to fulfil the agreements. I have commissioned Mr. Harris in the enclosed letter to make such enquiries as may be necessary as to the terms of freight &c., and if you will think it proper to give him an audience on the subject, I have no

objection to become answerable for the distribution and maintenance of 1000 or 1500 persons to be sent out in the course of this and the ensuing year and likewise that no expence whatever shall accrue after the landing as above or be chargeable to the Government. I have &c.

(Signed) THOMAS PHILIPPS.

[Copy.]

Letter from MR. GEORGE GREIG to EARL BATHURST.

CAPE TOWN, 11th May 1824.

MY LORD,—I did myself the honour to forward to your Lordship on the 15th of April last, per *Asia*, all the numbers then published of the *South African Commercial Advertiser*, a newspaper I had recently established in this Colony. I now beg permission to present for your Lordship's inspection, the remaining numbers of that paper, and to inform your Lordship, that on Tuesday evening last His Majesty's fiscal in this Colony (having *verbally*, on the Monday preceding, threatened to seal up my printing presses unless security were given to the amount of 10,000 rixdollars on the Friday following for its future conduct) stopped the paper, and on Sunday last sealed up my presses, and served me with the accompanying warrant.

I think it only necessary at present to deny the *truth* of all the allegations of the warrant ; and to state, that as I did not conceive it necessary to seek for permission, so no *conditions* have been broken ; nor have I, in a single instance, been wanting in "due submission to the lawful commands of the constituted authorities ;" and even had this been the case I am amenable to the laws.

As I will not lose a moment in laying before your Lordship such proofs of my entire innocence of the expressed or implied offences with which I am thus charged, and under the pretence of which I am thus ruined and banished, without being for one moment *heard in my defence*, I take the liberty of sending your Lordship these papers, together with a short statement of facts connected with the stopping of my paper, by the *Hope*, which

is now preparing to sail. On these papers I fearlessly rest my cause for the present, with your Lordship's justice. By the next vessel which leaves this place for England, I will forward to your Lordship facts and proofs sufficient, I trust, not only to prove my innocence but my merit; and to procure that redress which it must be every man's own fault or remissness if he does not obtain from the truly paternal Government of England.

The hurry of this letter will be excused by your Lordship when the circumstances under which it is written are explained in my next. I have, &c.

(Signed) GEORGE GREIG.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 14th May 1824.

MY LORD,—I do myself the honor to inform Your Lordship that I have this day transmitted to the Lords Commissioners of His Majesty's Treasury by the Ship *Neptune*, W. Edwards Master, the Accounts of this Government for the Year 1823.

I have used every exertion in causing these voluminous Documents to be completed within the Three Months of the commencement of the Year, agreeably to Your Lordship's Despatch of 9th March 1822, and I am happy to say that they have been prepared some time, but no favourable opportunity having presented itself for the conveyance of Papers containing Original Vouchers previous to the arrival of the *Neptune*, a short delay has unavoidably occurred in their transmission.

I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Copy.]

Letter from the FISCAL to LORD CHARLES SOMERSET.

FISCAL'S OFFICE, 14th May 1824.

MY DEAR LORD CHARLES,—I lose no time in enclosing to Your Excellency Copy of a Communication, which in consequence of my having pointed out to Mr. Pringle some very improper observations and hints on the Colonial administration found by me in his 2nd Number of the *South African Journal*, I just received from Messrs. Pringle and Fairbairn.

I have &c.

(Signed) D. DENYSSEN.

[Copy.]

Letter from MESSRS. PRINGLE AND FAIRBAIRN to the FISCAL.

CAPE TOWN, May 14th 1824.

SIR,—In consequence of your Official Communication of yesterday respecting the *South African Journal* we think it inconsistent with our personal safety to continue that publication. We remain &c.

(Signed) THOS. PRINGLE,
J. FAIRBAIRN.

[Copy.]

*Evidence given by MR. RICHARD MILLINGTON to the
COMMISSIONERS OF ENQUIRY.*

WORCESTER, 15th May 1824.

How long have you been in this Colony ?

Reply. Since the year 1817.

Are you by trade a Carpenter ?

Reply. I am.

You were a Soldier in the African Corps, I believe ?

Reply. Yes, I was, and I got my discharge from Captain Sparkes.

Where did you learn your trade ?

Reply. In the City of Chichester.

Were you in the employment of Captain Trappes at Tulbagh in the year 1822, or when the great storm of rain took place in that year ?

Reply. I was.

What work were you employed in ?

Reply. Carpenter's work and in repairing the Drostdy House at Tulbagh. I had not done anything to it at the time. I had only prepared materials.

Captain Trappes then had at that time intended to repair the House ?

Reply. He had.

In what state was the house before the storm ?

Reply. It wanted new window frames and windows and floors to two of the rooms, likewise several doors. The back part of the house was flat roofed, and the Boards were rotten, and fell into the bedrooms. The beams likewise were rotten, and required to be renewed. The spanroof of the Front required thatching, and three parts of the Timbers required to be new.

Were the Offices of the Landdrost's house, or the Secretary's house, in good repair ?

Reply. I was never in the latter before the storm, and I don't know whether it wanted repair or not. A few repairs were wanting to the Offices of the Drostdy House.

Were you at Tulbagh during the Storm ?

Reply. I was.

What effect had it upon the Drostdy Building ?

Reply. It made a wide crack in the Gable end of the House nearest to the Secretary's, from the foundation upwards. The Gable also at the other end of the House was cracked so that the Rain fell in great quantities into the Cellar. The flat roofs let in the water like sieves, and everything was obliged to be moved out of the rooms. The Body of the House and the Front Rooms were not affected, but by the Rain coming through the thatch. Two of the windows below were blown in, and

the whole of those in the Loft. The pillars that supported the verandah at the back of the House were washed away by the heavy rain. Two Out Offices, one of which was an engine house, were washed away, and another Out Building. Five Gable Ends of different Out houses, and part of the roof of one, tumbled in, as well as the walls. The Windows and Doors were likewise broken to pieces.

What were the offices built of ?

Reply. Some of Brick and some of Clay.

What was the Drostdy House built of ?

Reply. Of brick and plaistered, and the foundation of stone.

Did you ever make any estimate of the expence of repairing the damages done by the rain and storm ?

Reply. I never did.

Do you conceive that the Building of the Drostdy House at Tulbagh was good ?

Reply. The Building was good, but the wood work was bad.

Do you think there was any danger of the East Side of the Drostdy House coming down, or the N. East side ?

Reply. I think there was.

For what reason ?

Reply. On account of the crack in the wall which I was obliged to prop up, from its getting larger every day as long as the Rain lasted.

Were you employed by Captain Trappes to make any inspection, or report of the Buildings of the Drostdy ?

Reply. I was employed by Captain Trappes to make an Inspection of the Buildings after the storm, and I made a report upon it to him.

In that report did you state your opinion of the probable amount of the cost of repairing the Buildings ?

Reply. I did not.

What do you conceive that the Repairs would have cost ?

Reply. I cannot say, as I formed no estimate of the cost of the materials, or whether they would have served again.

Would it have been necessary to have taken down the Roof and put on a new one ?

Reply. I think it would. A great part of the Roof wanted

removing before it could have been new thatched. Some of the timbers in that part of the Roof where the rain had come in had lost colour, and were beginning to rot, these it would have been necessary to renew.

Did you ever hear of any offer of the Inhabitants of Tulbagh to repair the Drostdy House for the Sum of 1200 Rix Dollars ?

Reply. I never did.

Do you think yourself that that Sum would have repaired the Drostdy ?

Reply. I think it would have taken upwards of 1400 Dollars to have repaired the Flat Roof only.

What wages do you receive at present ?

Reply. Four Dollars per Day.

(Signed) R. MILLINGTON.

[Copy.]

*Letter from the LANDDROST OF WORCESTER to
J. T. BIGGE, ESQRE.*

LANDDROST'S OFFICE, WORCESTER, 16th May 1824.

SIR,—In reply to your communication of Yesterday giving cover to Documents shewing the encreased rate of Taxation of the Year 1823 when compared to that of the year preceding, submitted to you by several Inhabitants of this District, which increase they understood to be 'caused by the removal of the Drostdy from Tulbagh to Worcester, and calling upon me to furnish you with copies of any resolution taken by the Board of Landdrost and Heemraden submitted to the Colonial Government in favor of the Change of the Seat of Magistracy, and any estimate of the expence of erecting the New Buildings and the funds out of which they proposed to defray them, I have the honor to state that the increase of Taxes was entirely unconnected with the removal of the Drostdy, the Tax upon Slaves having been determined upon to meet the expense of repairing the old Drostdy House and public Buildings at Tulbagh, which were originally built of bad Materials, and subsequently suffered to fall to decay, and the encrease on

Transport and Commando had become absolutely necessary in order to pay the outstanding Debts on these heads.

No resolution of the Board of Landdrost and Heemraden was ever taken relative to the Change of the Seat of Magistracy, but after that change was determined upon by the Colonial Government, a prospectus of the Finances and resources of the District was furnished to Government, of which the enclosure is a Copy.

I have the honor to return you the Documents you transmitted Me, and beg leave to suggest that perhaps it might prove Satisfactory, were you to call upon the persons whose Opgaafs have been submitted to you for a return of the rates of Taxes recently paid, which will prove that the high Rates paid last year are no longer considered necessary. I have &c.

(Signed) C. TRAPPES.

[Copy.]

*Statement of MR. P. J. THERON to the COMMISSIONERS
OF ENQUIRY.*

TULBAGH, 17th May 1824.

I was a Heemraad in this District for six years in the time of Mr. Fischer, who immediately preceded Captain Trappes, Mr. Van de Graaff preceded Mr. Fischer as Landdrost, and was the first person who filled that office on the Establishment of the Drostdy about 20 years ago, when this District was separated from that of Stellenbosch. I was Heemraad when Mr. Fischer gave over the District to Captain Trappes; it was in debt at that time, and Mr. Fischer was indebted to the District Treasury. He had taken several sums from the Chest, but for what purposes I don't know. They were mentioned in the District accounts. Mr. Fischer passed a Bond in favor of the District Chest for the amount. Don't know whether it is paid or not. The Heemraaden always looked over the yearly accounts before they were sent to the Cape. The Expenses were incurred with the consent of the Heemraaden, and at the end of the year the Receipts were seen by the Heemraaden and compared with the accounts. As I have heard Mr. Fischer was not dismissed, but

that he requested his dismissal. An Order had been sent by Government that the Heemraden should give up their keys of the Chest to the Landdrost and Secretary. Does not know the reason for the Order. Believes there was a debt due to the Lombard Bank. Does not know for what. The Drostdy House at this place was built at the expense of the Government in the time of Mr. Van de Graaff. The Inhabitants contributed their labour, and I think were not paid for it. Every year repairs were made to the Drostdy House, at the expence of the District. Think that the situation of the Drostdy House was not inconvenient. The Road from the Witzenberg Pass and that from the Mosterd Hoek's pass within a quarter of an hour from the House.

The Gaol, Messenger's, Secretary's, and Sheriff's house were attached to the Drostdy. The land attached to it was of different qualities, good and bad, there was sufficient water; Captain Trappes cultivated some part of the Land. Waggons still come over the Witzenberg pass from the Roggeveld, and it could be made good at an inconsiderable expence.

In heavy Rains the Breede River is deep, but not particularly so, it is a long time before it runs down. Sheep and Cattle have to swim through the Berg River.

The opinion of the Heemraaden was never taken respecting the removal of the Drostdy from Tulbagh to Worcester. I knew nothing of it till the Proclamation of the 16th September 1820 was issued in the *Gazette*. Mr. De Lange was the first special Heemraad appointed. He is dead, and I succeeded him on the 20th April last. I exercise my Functions alone, assisted by a Clerk. I take cognizance of small complaints between masters and slaves, Hottentots and Christians. I receive a Salary of 300 Rixdollars per annum, but I am obliged to pay my Clerk and that absorbs my whole salary. I have no allowance for House rent or Lodging, but my office is at my Clerk's House, who offered it for nothing. Money transactions are settled by the Landdrost and Heemraaden. I follow the regulations that were issued by Sir R. Donkin for the guidance of special Heemraaden. I can imprison individuals on suspicion, reporting to the Landdrost. Contracts of hire of Hottentots are made before me, but I don't apprentice Children. The Reports of the Veld Cornets are directed to be made to me first,

and then transmitted to the Landdrost. I have Two Constables and two Caffre Constables and an under Sheriff. All the Expences are defrayed from the District Chest at Worcester. I must have the sanction of the Landdrost for any Expences that I incur. The Opgaaf is not received here. All Persons repair to Worcester to pay it. It would be to the convenience of the Inhabitants of the Eastern, Northern, and Western Field Cornetries if they were allowed to pay their Opgaaf here. The great inconvenience sustained by the removal of the Drostdy to Worcester is the encreased Distance and the detention arising from the swelling of the Breede River.

The Outspan places have been preserved, they are all fixed. Those appropriated to this place are about an Hour distant from it. The Inhabitants of the village used to occupy for grazing their Cattle, a piece of ground close to the Drostdy. Now they use it no more, as it belongs to Mr. Heatlie. Many of the Inhabitants of Tulbagh possess corn places in the neighbourhood, and some have vineyards also. Some also have a Profit from the produce of their Gardens. There are a few Mechanics, but the Majority are Farmers.

I know of no lands that have been given to individuals from those places, except in the case of Philip Schmidt the Field Cornet, who I believe has had a portion.

In some years the Inhabitants of the Bokkeveld reap a good deal of corn, but in the Roggeveld the Crop is frequently destroyed by the Frost. The district of 24 Rivers produces a great deal of corn, that is conveyed direct to the Cape. There are many Hottentots hired in the District, some of them are very fond of changing their Masters except where they connect themselves with the slave girls. When their time of service is out, they get a certificate from their Master, and apply to the Field Cornet to renew their Contract. If they go out of the Field Cornet's district, they obtain a pass from him to enable them to find a Master. This time is limited to 48 Hours. If the Hottentot wishes to go beyond the period of 48 hours, or to a greater distance, he must have a pass from the Landdrost.

I don't know whether Field Cornets have given passes to Hottentots wishing to go to the Institutions. Mr. Vos a Missionary resides here. He preaches on the Sunday afternoon to the Heathen (Slaves and Hottentots) after the Church

Service is over, a good many attend ; a House is appropriated on purpose, provided and supported by the contributions of the Inhabitants. I believe that the Slaves are taught to read. I think that the Slaves are well treated in this District. The greatest number of stripes that I am empowered to inflict amounts to 39. Slaves are not punished at the Tronk without my Order or Sanction.

The Tax upon Slaves was proposed to the Landdrost and Heemraaden in a Letter from the Colonial Government, as explained to the Heemraaden by the Secretary, for the purpose of defraying the expences of the new Drostdy. It was intended to last for three years. The expenses incurred for Transport and for provisions, on killing of tigers and wild Animals, were very considerable, and it was necessary to augment the Opgaaf to meet them.

I always understood that the Tax upon Slaves was proposed to defray the new Buildings at Worcester. The Cattle place at Witzenberg was sold at the same time as the Drostdy, it produced 20,000 Guilders, and belonged always to the Landdrost of Tulbagh.

I saw the Drostdy House after the heavy rains in the year 1822. One end of the house on the north was cracked, but it did not appear to be of consequence. The Pillars of the verandah had fallen down, the Roofs of the House were not damaged but leaked, that of an aviary on the outside fell in. The Roof of the front of the House was not damaged, the rain had come through the thatch, but it was quickly repaired. There was a passage at the back of the House which leaked. The Landdrost requested the Heemraaden to inspect the house, which they did some days after the storm, accompanied by the Landdrost. They made no report upon it. Know of no report that was made to the Colonial Government upon the state of the Buildings, but believe that the Landdrost sent a report to the Government.

The Landdrost asked my opinion respecting the cause of the crack in the gable, and I said that I thought it proceeded from the heavy wind and that it might be easily repaired, being only in the plaistering. The Landdrost expressed his opinion that the whole Gable should be pulled down and rebuilt. I advised that it should not, and it has remained ever since.

The Secretary's House, the Tronk, and Messenger's House had all received injury. I did not observe that the windows of the Drostdy House had received any injury, or that they were blown in. The Landdrost asked the Heemraaden their Opinion upon the state of the Drostdy House as they saw it. They said that they thought it should be repaired wherever repairs were wanted. The Landdrost expressed no opinion, but made a journey to the Cape, the result of which was not known to me at least.

Before the Storm happened the Drostdy had been partially repaired. I know of materials being procured, and I suppose that it had been intended to make some repairs. I know that it was his intention to have it painted. The cost of painting it in oil would have amounted to 1000 Rixdollars. Never made any estimate of the expense of repairing the Drostdy and Buildings after the Storm, nor do I know of any. I think that 800 Rds. would have accomplished it, with the exception of new thatching. I think that from 2 to 3 Thousand Dollars would have repaired it completely.

Never heard that it had been the previous intention of the Governor to remove the Drostdy from Tulbagh to Worcester. The latter had been established for about three years before the removal. I have seen the House since Mr. Heatlie occupied it, and since he has made all the necessary repairs to it, and it has stood the heavy rains that fell last year extremely well. I think that the removal of the Drostdy to Worcester is productive of great inconvenience to the Inhabitants of the Districts on the North, West and East, principally on account of the encreased distance and the passage of the Breede River.

(Signed) P. J. THERON, Special Heemraad.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 18th May 1824.

MY LORD,—Considering it highly necessary that steps should be taken to insure the performance of Divine Service in the Prison in Cape Town on the Sabbath Day, and to afford

religious Instruction to the prisoners, I have for the present engaged the Services of a competent Instructor, at the rate of Thirty-five Rixdollars per mensem, for these objects. A measure which I trust will meet your Lordship's entire concurrence, and I beg to solicit that Your Lordship will be pleased to communicate Your sanction thereof to the Auditors of Colonial Accounts.

I regard this as a temporary arrangement, being in Expectation that the Duties of the Clergy of this Town may at an early period be so regulated as to enable them to give their assistance permanently in the prison at a reasonable compensation, of which I shall do myself the Honor to apprise Your Lordship. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Office Copy.]

Letter from R. W. HORTON, ESQRE., to the COMMISSIONERS OF ENQUIRY.

DOWNING STREET, 18th May 1824.

GENTLEMEN,—I am directed by the Earl Bathurst to transmit herewith for your consideration a copy of a Memorial which has been addressed to His Lordship by Mrs. Ann Bailie on behalf of her son Mr. John Bailie a Settler at the Cape of Good Hope, praying that he may receive the grant of an erf of land at the Kowie River, or that his present allotment of land may be extended to the amount of two thousand Morgen.

I am &c.

(Signed) R. W. HORTON.

[Copy.]

Memorandum by MR. THOMAS PRINGLE.

On the 18th of May, a Messenger from the Governor was sent for me at the Library, requesting my immediate attendance at the Audience Room adjoining the Colonial Office. On going over I found His Excellency waiting for me, with the Chief Justice seated at the table. His Lordship beckoned to me to take a seat directly in front of him ; and as soon as I had done so, he opened upon me in the following terms : “ So, Sir, you are one of those who think proper to insult me, and oppose my Government.”

I requested His Lordship would explain himself.

He repeated the words, and proceeded to accuse me in very intemperate terms, and in a most haughty and overbearing tone and manner, of having behaved towards himself and the Government with extreme disrespect and insolence, of having misrepresented his public conduct and character, and endeavoured to heap unmerited contumely upon his administration.

On my requesting to know the grounds of these severe Charges, His Lordship pointed to the Article “ on the state and prospects of the English Emigrants ” in the second number of our journal, and holding out the note which we had addressed to the Fiscal on the 14th he demanded if that was my writing and Signature.

I replied it was, and that I adhered to the Sentiments I had there expressed, but that I entirely disclaimed in that or any other act any intentional disrespect to His Excellency or the Government, and that being conscious of no fault I felt myself treated very injuriously in being thus subjected to harsh reproof and severe imputations.

His Lordship then launched out again in a still more violent tirade against my conduct, reiterating his accusations and reproaches in the most cutting and sarcastic terms, and adding that such conduct was peculiarly obnoxious and insufferable from one who had received, both in my own person, and for the behoof of my friends and relations, so many favors from the Colonial Government. My Brothers, and Party on the Frontier, he observed, had received repeated enlargement of

their agricultural allotments. A market had been opened for their surplus produce at my suggestion by the Government. I had myself received not only my present appointment in the Government Library, but had been indulgently permitted to open a School also "although the duties of the one were not very consistent with those of the other," and considering that all this, and more had been done for me, how had I the ingratitude and unparalleled effrontery to write that insolent letter to the Fiscal and to sign that Memorial, got up by a factious Party to the King in Council for a free Press? How did I dare to do such things and to obstruct and insult his Government?

While his Lordship heaped these reproaches upon me, and many more of a like nature, of which I do not precisely recollect the terms, with a style of language, a tone of voice, and a glance of eye, exceedingly overbearing, taunting and insolent, I confess to you, Gentlemen, that I felt the blood boil in my veins, and my frame tremble with deep indignation; and had he been a person, whom I could have answered on equal terms, I should never have brought the cause to your Bar, nor that of the Public. He should have answered at his peril for every reproach he uttered. But as it was, I controlled, with whatever difficulty, my feelings, and answered the Representative of my Sovereign with due deference and respect. I stood up and looked Lord Charles Somerset firmly in the face, and told him proudly, that tho' I was not his equal in rank, I knew what was due to him and to myself. That however humble and obscure as an Individual, I was a free born British Subject, sensible of my rights and conscious of my innocence, and that no man alive had a right to talk to me in that style. That in leaving my native Country for a Settlement in this, I never conceived that I had resigned the best rights and privileges of a free man, and that until this were proved to me, I would brook unmerited reproach and insulting imputations from no man whatever, however high his rank, or unlimited his authority; that I had never failed in rendering all due respect to constituted authority; that the attention of Government towards the welfare of my friends and Party, (though not more than they had just claims to expect) had been ever gratefully acknowledged by me, both in word and writing; and that on the other

hand, my Party was perhaps the only one that had never troubled the Government with a single complaint during all their privations and sufferings. That in respect to my own appointment in the Library, I trusted I had not been inattentive to the duties which I received the Public Money for discharging. But that however grateful to His Excellency for that appointment, I was now for the first time aware that holding it deprived me of my free agency in regard to matters otherwise legal and loyal. That I would not however dispute this point with his Lordship, but as I had been born a free man, I should endeavour to preserve the privileges of one, at whatever sacrifice of favor or interest, and would therefore instantly resign the situation with which he taunted me, and that I begged, in the presence of Sir John Truter, to resign it accordingly.

After this, His Lordship addressed me during the remainder of our conference with somewhat more civility, though his ill suppressed arrogance occasionally burst out in sarcastic and taunting insinuations. He asked me if I thought myself a better Judge of Military affairs than himself or the Commanding Officers on the Caffre Frontiers, since I had so freely and presumptuously reprobated the system of defence adopted there.

I declined entering into argument with his Lordship on this subject, because I saw it was a sore point; and to maintain the truth would probably provoke him still further to insult me, but I *could* have told him, what I now tell to you, Gentlemen, that I had lived on that Frontier for two years in constant peril and alarm from the Caffres, and never went to sleep without a loaded gun by my side. That I had taken my turn with my friends in many a weary nightwatch, while the Scouts, and wandering Parties of the Enemy were continually prowling round us and carrying off almost weekly, the cattle of our neighbours; many of whom were almost totally ruined by these depredations; and that all this time, the Officers on the Frontier were building Parade Forts, or pretty cottages, shooting Partridges, or smoking segars, or flogging Hottentot Soldiers till they deserted in droves, doing everything useless or mischievous, but *not* defending the Frontier.

But Gentlemen, I did *not* say this to His Excellency, because his son was at that period Commander of the Cape Corps, and

His Lordship was absent in England, and I would not uselessly or intentionally wound his feelings by raking up old sores.

After a long and rather angry critique upon our article on the Settlers, which his Lordship said was a subject altogether which we ought particularly to have avoided, he softened down so far as to coax me with a few compliments, and endeavoured to persuade me to go on with the publication of the *Journal* upon the terms of our original Prospectus ; but this I firmly tho' respectfully declined, stating that after the conversations I had now had both with His Excellency and the Fiscal, I saw clearly and decidedly that our only honorable and safe course was to discontinue the work until the Colonial Press should be placed upon some well defined and permanent footing, I trusted an entirely *free one*, but that of course must be left to the Wisdom of His Majesty's Government to decide.

His Lordship repeated this invitation to me more than once, and then called the Chief Justice (who was present during the whole of this conference) to bear witness that he had invited, and urged me to continue the work on the precise terms that I had myself originally proposed, and that I had refused.

I retired to the Library, and immediately addressed to His Lordship the following Letter :

SOUTH AFRICAN PUBLIC LIBRARY, May 18th 1824.

MY LORD,—In the interview which I have just had the honour of having with your Excellency in presence of the Chief Justice you were pleased to say, that you considered my Conduct in writing a Letter to the Fiscal, which you considered insulting to your Government, and in signing the Memorial to His Majesty the King for a Free Press in this Colony, to be inconsistent with my duty as a Public Servant.

I therefore feel called upon, while disclaiming the remotest intention of any insult or disrespect to your Excellency in these transactions, respectfully to tender to your Lordship my resignation of the Situation of Sub-Librarian in this Establishment. I have &c.

(Signed) THOS. PRINGLE.

To His Excellency the Right Honourable Lord C. H. Somerset.

[Copy.]

Memorial of MR. CHARLES FREDRIK LIESCHING.

To His Excellency the Right Honorable General Lord Charles
Henry Somerset, Governor and Commander in Chief,
&c., &c., &c.

The Memorial of Charles Fredrik Liesching most humbly
Sheweth

That your Lordship's Memorialist after having served his regular Apprenticeship as Apothecary, Chemist and Druggist with Messrs. Dr. Liesching and Co., Apothecaries, Chemists and Druggists of this Town, conducted the said concern of Liesching and Co. as acting or managing Partner for five successive years since January 1819, which will appear to your Lordship from a Certificate which Memorialist takes the liberty to annex, besides that these facts are of public notoriety.

That your Lordship's Memorialist has since the beginning of this year, with mutual consent, withdrawn from the above partnership, and is now desirous of continuing in the profession to which he has been brought up, by opening an Apothecary's, Chemist's and Druggist's Shop, and thereby to earn an honest livelihood for himself and his encreasing family.

That your Lordship's Memorialist humbly conceives that no Colonial Law or Regulation, if fairly construed, will interfere with the carrying of this plan into execution, since all Individuals practising as Apothecaries in this Colony have uniformly been admitted as such, upon the production of a proper certificate of having duly served their apprenticeship.

With reference therefore to the Certificate hereunto annexed and the circumstances before stated, your Lordship's Memorialist humbly prays for your Lordship's sanction to Memorialist's undertaking.

And Memorialist as in duty bound will ever pray &c.

[Copy.]

Notes on the State of the late Drostdy House at Tulbagh.

TULBAGH, 19th May 1824.

The Commissioner proceeded to visit the Old Drostdy House of Tulbagh accompanied by the special Heemraad Theron and Mr. P. Theron an Inhabitant of the Town. The Drostdy House is situated upon an Eminence to the North East of the village of Tulbagh and about a mile and a half distant from it, the Road to it is good, passing over some gentle eminences and a small valley through which the water flows that descends from one of the Ravines of the mountain on which the Witzenberg Road passes, and supplies first the Drostdy House and afterwards the village of Tulbagh. In this valley ascending from the village is situated part of the Land attached to the Clergyman's residence, the Erven of Mr. Fischer, former Landdrost of the District, and certain others that were taken from the Drostdy lands and given to Mr. Van der Graaff. The Soil appears to be composed of light sand and Gravel on the eminences and in the bottom of a light and rich Loam. In the latter there are vineyards and gardens planted with oranges and other Fruit Trees that appear to be productive.

The Drostdy House is a long Building of one Story supported in front by a basement of stone and Brick, well put together and forming at the west end where the Ground falls depth sufficient for very good and dry cellars, a large and broad Stoep runs along the back entrance, and in front of that there appears to have been a flower garden, surrounded with a wall and paling.

The entrance Hall is a very handsome Room about 33 Feet by 20, and occupies the whole breadth of the Building. It is well painted in imitation of architectural Stones, and only in one place towards the West Front has the Paint been discolored by rain or moisture. The Beams of the Ceiling are of yellow wood, and to all appearances sound and in good preservation. A very handsome verandah of Mason work. By Mr. Fischer's account the verandah was planned and built by Thiebault, the French Architect, to take off the defective appearance of the Front. It is well designed and in good

proportion to the House. Sir D. Baird allowed 4000 Dollars to be paid from the Colonial funds to defray the expence.

Supported by arches and standing upon a broad flight of steps, made of brick well laid, the verandah covers the West entrance to the Hall. This Building appears to be perfectly sound, altho' some of the Bricks are decayed from exposure to wind and moisture in particular places. The Floors of the Verandah, the Hall and Passages are laid with Square Dutch Tiles. On the West Front and on each side of the Hall are two ranges of apartments consisting of three rooms. The first of these on the right is 30 feet by 20, of great height, with two broad windows in it. The floor of this room requires to be repaired and relaid. It is papered and apparently free from damp and the effect of rain.

The two rooms beyond are of smaller dimensions, the floors good, but the South East Walls or Gable of the last room is cracked from top to bottom and has been plastered over. This was said to be the effect of the heavy rain in the month of July 1822. The Crack has not enlarged or admitted Rain since it was repaired. These Two Rooms open into a narrow and dark passage that receives light from a skylight in the Roof. At one end of this passage is a Door that communicates with the Garden, and at the other is one that opens into the Entrance Hall. To the East and forming the back front of half the house is a range of 4 Small Apartments intended for Bed rooms; these rooms are all of good height, but the planks that support the Brickwork of the Flat Roof have sunk and require to be renewed. No Traces of the effect of Rain or damp were visible in the walls of these Rooms or in the passage.

The ranges of Apartments on the South Side of the Hall correspond exactly with that which has been described on the other, and in good repair.

The Kitchen being at the end and communicating with the Out Offices by a Stone Stair Case and also with the Cellar, where there appeared to be every convenience for preserving Wine, Meat, &c. The same defects of the Flat Roofs were observable in the passage at this end as at the other. The South Walls appeared to be weaker, and at the S.W. end of the House there was a crack that appeared to have begun at

the Angles of the Gable and to have spread obliquely into the centre of the wall as far as the line of the foundation, all the building below that Line was perfectly Sound as well as the Bricks and Stone Work.

The Frames of the Windows did not appear to be in the least unsound, nor the window shutters. The Doors required to be renewed.

The Commissioner proceeded to examine the Roof. The thatch with which the west front is covered is in a decayed state, and at the two Gable ends before mentioned the Rain appeared to have entered.

The Window in the North East Gable was bricked up and Two other windows had been repaired by Mr. Heatlie. The Rafters are weak, but not decayed, and the Floor is perfectly dry and good.

Dried Fruits and Seeds were laid out upon it. Some Cracks in the Flat Roof of the back part of the house covering the passage and smaller apartments had been plastered over, and the Skylight covered with Canvass. They had not admitted Rain since the Storm in 1822, tho' a good deal had fallen in October 1823. One of the Gardens is in front and the other to the left on the sides of the valley through which the water runs. Both are abundantly supplied with it. The higher garden is in an exposed situation and surrounded by a 4 Foot Wall. It contained a fine Crop of Barley, Peas and Beans ; part of it is not good soil, but the lower garden bears abundantly.

The Offices consist of detached Buildings for Slaves and Workmen, a Blacksmith's Shop, a waggon house, and Two Stables, none of which are in good Condition though Tenatable. In a line with the Drostdy House to the East are several Buildings, consisting of a House for the Secretary in bad repair, Messenger's house also in bad repair, Gaoler's House and Gaol built of mud, the latter contains 4 Separate Apartments, clean and Airy. A Mud Wall encloses a small yard adjoining the House and Gaol, the other few houses belong to Individuals who had purchased small portions of the Land in Erven under encouragement of former Landdrosts : the Doctor's House was one ; very few of these Erven had been built upon.

The Drostdy ground lies near the House, and that which is

contiguous to the Rivulet appeared to be productive. The Land in Front and on the West side of it is unfit for Cultivation, with the exception of about Twenty Acres in a bottom. Mr. Heatlie has about 30 in different kinds of grain, and intends to put in 20 more this season.

The Land requires manure like all the Land in the neighbourhood, and produces excellent wheat, of which a sample was seen in one of the Rooms of the Drostdy House from the Crop of last year. A fine run of clear water passes through the ground immediately behind the House, and the Rivulet that takes its rise in the Witzenberg pass flows through the narrow valley in front of the house.

(Signed) JOHN GREGORY, Secretary.

[Copy.]

Letter from the Acting Colonial Secretary to the Colonial Medical Inspector.

COLONIAL OFFICE, 20th May 1824.

SIR,—I am directed by His Excellency the Governor to transmit to you the enclosed Copy of a Memorial from Several Merchants and Traders interested in the Sale of Drugs and Patent Medicines, representing the injury they sustain, under the Provision of the 5th Clause of the Proclamation of the 26th September last for the regulation of the Medical practice, for your report thereon. I have &c.

(Signed) P. G. BRINK.

[Enclosure in the above.]

To His Excellency the Right Honorable General Lord Charles Henry Somerset, Governor and Commander in Chief, &c., &c.

The Memorial of the Undersigned Merchants and Traders of Cape Town, interested in the sale of Drugs and Patent Medicines, respectfully Sheweth,

That it is established in your Lordship's Proclamation, bearing date 26th September 1823, as follows :

“No Merchant, Trader or Dealer is to be allowed to vend by retail any Drugs, Medicines or patent Medicines in this Colony, under penalty of 500 Rixdollars, nor is to be allowed to vend the same by wholesale without such Drugs, Medicine or patent Medicines having been first submitted to the Inspection of the Colonial Medical Inspector.”

That several of your Memorialists have large Sums of Money invested in Medicines on the faith of being allowed to sell said Medicines Sanctioned by His Majesty's Royal Letters Patent and also by immemorial usage and custom.

That altho' your Memorialists never had or can have the slightest objection to their Medicines being subjected to the most rigorous Inspection of a Colonial Medical Board, yet they humbly beg leave to represent to your Excellency that the placing in the hands of one Individual a power so great as is now placed in the hands of our Colonial Medical Inspector, however respectable that Individual may be (and on which subject your Memorialists do not intend by their observations to cast the least Shadow of Reflection), a power by which the property of the Importers may be destroyed on the “ipse dixit” of one Individual, and from whose decision there is no appeal, a Power of condemning English Patent and Dutch Medicines, the component parts of which he may be wholly ignorant of, is an authority that may possibly become so dangerous, that it only requires to be brought under Your Excellency's consideration to meet an immediate remedy.

That hitherto it has always been lawful to vend by wholesale or retail English Patent Medicines, also those called Hallische Medicines, such as Balsam of Tilley, Wonderful Essence, Red Powder, &c., &c., such as are generally purchased and used by the Inhabitants of the Country Districts, many of whom live at the distance of one hundred miles from any professional assistance.

That altho' your Lordship seemingly in the said Proclamation had no intention to prohibit the important sale of said Hallische and patent medicines, yet it does most effectually prohibit the sale thereof to the prejudice of Trade and the manifest injury of those who have stocks on hand, and punishes most effectually any Individual who should presume to sell any well known Patent Medicine, the use and effect of which has been known by every family throughout the Colony from

time immemorial. That the efficacy of Patent and Hallische Medicines is evident, and though innocent, prejudice in their favor, particularly in the Country Districts, is great, and where their use for reasons before mentioned is so necessary. That altho' your Memorialists never heard of Mischief arising from such use, many instances are known where they have recovered persons from severe attacks of illness, even after a regular practitioner has given over the Patient, and therefore your Memorialists humbly pray your Excellency will cause such alterations to be made in the proclamation of 26th September last as may in your Lordship's judgment seem fit to meet the justice of the case, and Memorialists will ever pray &c.

(Signed)	J. H. WHISTON,	WILLIAM MASKEW,
	G. MARTIN,	COOK & THOMPSON,
	JOHN HAWKINS,	P. WOUTERSEN,
	D. L. BECK,	JOSEPH LEVICK,
	J. W. STUCKERIS,	W. HOFMEYER,
	THOMAS MORGAN,	D. F. SCHALKWIJK,
	VAN HALL SAPPÉ	P. M. TESSELAAR,
	& MUNTINGH,	H. A. LATEGAN,
	J. W. BOHMER,	J. F. REDELINGHUIS,
	J. G. BLANKENBERG,	J. N. ROSSOUW,
	R. J. JOHNSON,	M. HOETS,
	J. A. WAHL,	G. W. KEITEL,
	A. CHIAPPINI & Co.,	S. STRONK,
	JOSEPH DAY,	J. A. BRESLER,
	E. DE MOLDROP,	W. E. SHEPPARD,
	JONES GADNEY & Co.,	R. A. ZEEDERBERG,
	J. D. WAHL,	A. P. STADLER,
	R. WITZEN,	ABM. BRINK,
	O. F. STEGMAN,	J. C. PENTZ,
	S. HOFMEYER,	R. C. HOETS,
	P. RING,	R. E. HOETS q. q. J.
	E. K. GREEN,	HOETS,
	F. PRELLER,	DANIEL PHILLIPS,
	R. H. EATON,	EDWARD EAGER,
	JOHN COLLISON & Co.,	W. DONNOUGH.
	P. J. REDELINGHUIS,	
	CORNELIUS KORSTEN,	
	D. FOCK,	

[Copy.]

Evidence given by the REVEREND MR. VOS, LATE MINISTER
OF TULBAGH.

TULBAGH, 20th May 1824.

The Commissioner visited the Revd. Mr. Vos, resident in Tulbagh and formerly Minister of that place. Mr. Vos stated that the Church at Tulbagh had been built many years preceding that of 1804, and the Pastory also. He agreed that the latter is inconveniently situated with regard to the Church and too large and expensive for a Clergyman. It was made so on account of the Person for whom it was first built, the Son in Law of the Governor.

All the Land near the River (a very large portion of which belongs still to the Pastory) formerly belonged to it, and in the time of Governor Sluysken he Mr. Vos proposed to the Church Wardens to sell a portion of this Land to induce Inhabitants to settle near the Church. The Governor was at first indignant at this, having conceived that the land belonged to Government, but having been otherwise informed, he gave his sanction to the measure; but only 8 Erven were sold, consisting of the land which is converted into Gardens on the margin of the rivulet. These were afterwards subdivided and sold.

A true copy.

(Signed) JOHN GREGORY, Secretary.

[Copy.]

Letter from FIELD CORNET D. J. THERON to
JOHN GREGORY, ESQRE.

TULBAGH, 20th May 1824.

SIR,—I have the honor to enclose to you a return of the number of the Houses, Inhabitants, Slaves, Hottentots, &c., &c., with a list of the built and unbuilt Erven in Kerkstraat, Old Drostdy, and Brouwerstraat. I have &c.

(Signed) D. J. THERON, Fieldcornet.

[Enclosure.]

Return of the Population, of Slaves, Hottentots, &c., &c., of
Kerkstraat, Brouwerstraat, and the late Drostdy of Tulbagh.

Number of Erven (Building Allotments).

Built Erven in Kerkstraat	37
Unbuilt Do. Do.	31
Built Erven late Drostdy	12
Unbuilt Do. Do.	13
Built Erven Brouwerstraat	8
Unbuilt Do. Do.	3
<hr/>	
Total Erven	104

Number of Inhabitants.

Male in Kerkstraat	62
Female in Do.	73
Male late Drostdy	17
Female Do.	14
Male in Brouwerstraat	23
Female in Do.	27
<hr/>	
Total Inhabitants	216

Number of Slaves and Hottentots.

Male in Kerkstraat	101
Female in Do.	92
Male late Drostdy	48
Female Do.	24
Male in Brouwerstraat	39
Female in Do.	37
<hr/>	
Total Slaves and Hottentots	341

Tulbagh, 20th May 1824.

(Signed) D. J. THERON, Field Cornet.

[Copy.]

Statement of MR. JOHANNES HENRICUS FISCHER.

TULBAGH, 20th May 1824.

In the month of October 1804 I was appointed Secretary to this District. Mr. Van de Graaff was appointed Landdrost of the District of Tulbagh, which had till then belonged to Stellenbosch. The church and several houses of the present street had been built some time previously as well as the Clergyman's house. It was then determined by Mr. Bletterman, who was deputed for that purpose by Mr. Commissary De Mist, to build the Drostdy House and Secretary's house in its present situation. The place was bought for 20,000 Guilders and the house was built for the sum of 25,000 Rix Dollars, that were issued by the Batavian Government and General Janssens for this purpose. A further sum of 25,000 Guilders was borrowed for the purpose of building the Secretary's and Messenger's House. That Debt has been paid off by the District some few years ago. The 25,000 Dollars was a Donation from the Government, and Sir David Baird gave a sum of 4,000 Dollars principally for the purpose of adding the verandah in the front of the House, which was executed under the directions of Mr. Thiebault the architect.

The Boers of the neighbouring District, Bokkeveld, 24 Rivier and Hex River, contributed to the Building by carrying out materials. The stones were found about a quarter of a mile from the Drostdy, the clay was found in the low place of the Rivulet. The wood was brought from George, but in Trappes for by Mr. Bletterman.

I don't know the reasons that determined the choice of the Situation of the Drostdy in the month of January the intention of Commissary De Mist to convert the parsonage into a Drostdy, but Mr. Bletterman and notes and otherwise.

I think at the time (1804) there was not a house in the Church Street. I did not see any of the Drostdy, and the Secretary's House and the Gaol from the time I inhabited the Drostdy. I never was indebted to it. The

found it convenient, but rather too large. I cultivated very little of the Land myself. Mr. Van de Graaff had a good deal in cultivation, part of the land is good, the Garden was very productive, and I had abundance of vegetables from it.

By the order of the Government in 1805 or in 1806 a portion of the Land upon the Border of the River extending from the Drostdy to the village was laid out in 8 erven on the same plan as the present village. The erven were put up to sale, and Mr. Van de Graaff purchased two Garden erven, and Field Cornet Nolte purchased two, and I purchased two myself. The late Mr. De Lange purchased the other two. The Erven consisted of one morgen of land each. I afterwards purchased two of the erven of Mr. Van de Graaff, and the two of the Field Cornet Nolte which were measured in one, and which constitute my present place. I think I gave 70 or 80 Rix Dollars for each Erf. They were sold by auction. Several erven in a line with the Drostdy have been laid out and sold; in the year 1807 I bought two myself for 80 Dollars each. They have never been built upon, and few others have, they are all well supplied with water. I exchanged my erven with 20 morgen of Land attached to those lower down, and upon which I now reside, and 23 morgen granted to me by Sir J. Cradock on quit rent.

The principal cause in my opinion of the little encrease in the population near the Drostdy is that it lies a little out of the way with respect to the Church and the village.

The cause of the little encrease in the population of the Male of Tulbagh, viz. Kerk Street, was the original and Female division of the erven, and latterly the want of land Male occupants. By order of Government, I sold in the Female March in the year 1821 18 erven in the line above Female in Street. One of them near the Church produced use above only from 80 to 100 Dollars each; Tall purchased on one morning.

Tulbagh, 20th May of Houses were laid and four houses have might have been brought to these erven, (Signed) pence. It was not then known that it to transfer the Drostdy to

ade for several years. The
ars ago, I don't know by

what Governor. It has passed through several hands to the present owner, who is bound in consideration of the Tolls to keep the road in good repair, and in failure thereof the Landdrost has the right of making the repairs and charging the owner of the Tolls with the expence.

Those of the Inhabitants of the Bokkeveld and their Descendants who first assisted in making the Pass are exempt from Toll. I think the pass can be improved. Waggon's that bring corn over the Witzenberg pass unload and bring the corn on horseback down the Hill.

I was appointed Landdrost to the District in the year 1815, and continued so till the beginning of January 1822, when I resigned on account of ill health. The only debt that had been incurred by the District consisted of 8,333 Rds. that were borrowed of Mr. De Waal for the purpose of erecting public Buildings and which are now paid off. 3,666 Rds. which were borrowed to purchase the Roodesand Kloof of one Joubert the Proprietor; this sum is I believe yet due to Mrs. De Waal and Interest is paid for it. 5000 Rds. are also due to the Orphan Chamber for the purchase of Land at Clan William for the Drostdy. 3,333 Rix-dollars (due to the Lombard Bank) for the purchase of a little place for the Landdrost situated on the other side of the Witzenberg Pass. It has lately been sold, and produced 6,666 Rds.

When I was Landdrost, I cultivated the Drostdy Lands, but they did not produce sufficient for my own consumption; during my time the ordinary receipt of taxes was sufficient for the expences of the District.

When I delivered over the District Chest to Captain Trappes in April 1822, there was a balance in favor of the District amounting to 14,542 Rix-dollars.

The amounts that I paid between the months of January and April of the year 1822, amounted to Rds. 6,773 1 sk. 4 sts. I delivered 787 Rds. 4 sks. 4 sts. ready money and notes and obligations that had been taken by myself, the Heemraaden and Secretary, in payment of Opgaaf to the amount of 6,982 Rds.

It is not true that I was indebted in any sum to the District Treasury. I never passed any Bond for any debt of my own in favor of the District. I never was indebted to it. The

Heemraden and Secretary always had knowledge of the Sums that were left in arrear at the receipt of Opgaaf. The Indulgence was given on account of the repeated calamity of the rust that had destroyed their Crops, nothing was due on account of arrears of Commando Tax. I received a letter from the Colonial Government stating that this Tax for the year 1821 was not paid, and I produced an Official Receipt of Mr. Stoll the Receiver General that it had been paid.

The Sub Drostdy of Worcester was established in my time. I think it is a good situation for a Drostdy, it is a Central point of meeting for Waggonen from the whole Interior. Several come from Swellendam and George and pass the Roodezand Kloof on their way to the Cape. The Situation chosen for the Town is also good. I think that many persons who are passing with their produce through the Town of Worcester from the Interior will, when it is inhabited, be induced to dispose of their Cargoes rather than go on with them to Cape Town.

I think that the population of Worcester is likely to encrease. The Situation of Tulbagh is only advantageous to the Inhabitants of Roggeveld and Bokkeveld. The view that I entertained was that Tulbagh should be a Sub Drostdy and that Worcester should be the seat of the Drostdy, neither myself nor the Heemraden ever made any representation to the Colonial Government on the expediency of transferring the Drostdy to Worcester, nor did the Colonial Government ever ask for our opinion.

80,000 Guilders were given for the Sub drostdy House and Farm at Worcester, and 60,000 Guilders for the other Farm, near the present site of the village. It was paid in 3 Instalments by the Colonial Government.

Before the Sale of the Erven at Worcester I proposed to the Government the usual terms of Payment, viz. in three, six, and twelve months, but I received an answer from Colonel Bird, that it would be more advantageous to sell them at the extended Terms of 3, 5, and 7 years.

(Signed) J. H. FISCHER.

MR. J. H. FISCHER *re-examined.*

TULBAGH, 22 May 1824.

Mr. De Lange's two Erven were nearest to the Drostdy Grounds. About Two years after the Erven had been sold, Mr. De Salis one of the Members of Council altered the plan, and took into the Drostdy ground the two Erven of Mr. De Lange, he also altered the plan of the Erven that had been made at the Drostdy by taking in Two Erven. The Foundations of different Public Buildings and Secretary's house had been laid out in a line with the Garden Wall. Mr. De Salis removed them and placed them in a straight line with the Drostdy in their present Situation.

Several Erven beyond them were sold and purchased by Individuals, but few have been built upon. The accounts of the damage done by the storm in 1822 were much exaggerated, almost all the Houses in the Village and the Drostdy received some damage, but the Gardens attached to them were not inundated. The Gable Walls of Mr. Vos's, Mr. Meyer's, Mr. Du Preez's houses were thrown down. A new House of mine suffered considerably, the old one did not.

(Signed) J. H. FISCHER.

[Original.]*Letter from LORD CHARLES SOMERSET to EARL BATHURST.*

CAPE OF GOOD HOPE, 21st May 1824.

MY LORD,—Having after His Majesty's Commissioners of Inquiry had completed their Investigation of the British Settlement in Albany communicated with those Gentlemen upon the best course to be adopted for adjusting all Matters at issue between the Government and the Settlers as well as for arbitrating if possible all cases in Litigation between Individuals, I have decided, in concurrence with the opinions of Mr. Bigge and Major Colebrooke, to appoint a Commissioner for that purpose ; it being considered that the time which must necessarily be occupied in making a fair and equitable adjust-

ment of each Case would preclude the local Magistrate from effecting it or cause so great a hindrance in carrying on the ordinary Business of the District as to create Serious Inconvenience to the Public.

I have selected Wm. Hayward Esq., the Officer at the Head of the Department of the Commissary of Accounts on this Station, for this Commission and George Marsh Esq. to be the Secretary to it : to the former I propose to make a Compensation of 10 Rix-dollars per Diem and to the latter of 4 Rix-dollars per Diem, exclusive of the actual expence of conveyance and Stationery, which arrangement I trust will meet with Your Lordship's sanction and approbation.

I have the honor to transmit herewith a Copy of the Instructions I have given to Mr. Hayward, in forming which I have been greatly indebted to Mr. Bigge and Major Colebrooke, and I shall feel gratified in hearing that Your Lordship approves of this measure and that Your Lordship feels assured that every exertion has been resorted to by me that justice to the public Interests would allow me to make, to tranquillize and satisfy the British Emigrants and to secure the ultimate success of the undertaking. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure in the above.]

Instructions for the Commissioner appointed to investigate the Claims of the Emigrant Settlers in the Albany District.

Article I.

The first object that is to engage your attention will be to enter into a detailed examination of the various Statements and Memorials that have been addressed by the Settlers to the Colonial Government, Copies of which will be found in the Office of the Landdrost of Albany, who will be instructed to deliver them up to you, and copies of such as have not yet been referred for report are hereunto annexed ; and in order to aid this investigation the leading principles upon which the original scheme of Colonization was intended to be conducted are here recapitulated.

On a reference to the printed Circular that was framed in Downing Street (a copy of which is hereunto annexed) you will perceive that the following conditions were held out for the guidance of the parties emigrating.

1st. That the quantity of land that each party was to receive would depend on the Number of Individuals or Families that were landed in the Colony and conducted to their location.

2nd. That the title to the land was to be given at the expiration of the term of Three years, subject to a Quit Rent to be fixed by Government, and the conditions annexed were those of residence on the Location, during the full term, of a number of Individuals or Families, in the proportion of One for every Hundred Acres of Land, and of forfeiture in case it should be abandoned, or not brought into cultivation.

3rd. That in cases where Individuals engaged with the British Government to take out a certain number of able bodied Men or families, a deposit was required to be made with the object of ensuring the performance of engagements, which deposit was to be repaid by Instalments for the purpose of providing for their subsistence in the Colony, until their exertions might enable them to raise the means of support. The parties accepting these terms were of three descriptions, 1st those who advanced and made deposits in London for themselves, their families and a certain number of Servants, who contracted to serve them for a specified term, some with a condition of receiving Land at the expiration of the term, and others without that condition. 2ndly those which consisted of persons who bound themselves under certain engagements of servitude to the individuals who made the deposit for them, and would acquire possession of the land, and 3rdly such parties as were made up of persons who deposited through the medium of a nominal Head, the sums required to entitle them to receive their allotments of land on their own account. In this class may be included those for whom the Parishes in England advanced the deposits.

There were also some parties composed partly of independent Settlers and partly of hired Servants.

Article 2.

Amongst the various claims arising out of these engagements, to which the first and second principles will have to be applied, are those which have resulted from disputes between the Masters and Servants, or between the Individuals of other parties and their nominal Heads. In parties of the first description instances will be found where the Heads consented (either from their inability to subsist them or from a sense of the inadequacy of the remuneration that the Servants had agreed in England to receive) to the release of their dependants ; in others the complaints of the Servants led to the interference of the Magistrate, who obtained the sanction of Government for the dissolution of the Party ; in all cases where the engagements were thus dissolved the consent of both parties was understood to be expressed or implied.

Claims may be presented by the Servants, who made engagements in England with their employers, to receive certain portions of Land in consideration of their Services ; such claims should be enquired into and settled if possible.

Article 3.

Where misconduct in the Servant led to the interposition of the Magistrate, he would justly forfeit his claims upon the Master, but when the engagement was not wilfully broken, but a disposition had been shewn to adhere to and fulfil it, the claim should be upheld, and you are hereby authorised to make to the claimant (subject to the confirmation of Government) an encreased allotment in the proportion of eight or ten Acres to one, in consideration of the inferiority of the land or the inadequate remuneration which the Master agreed in England to give to his Servants.

Article 4.

As in parties of the description alluded to in the above Article, a title to the land could only be claimed by the Master for the actual number of Individuals or Families who continued to reside in like manner with the Independent Parties,

no claims can be asserted to the respective allotments where the same condition of residence and cultivation has not been fulfilled, unless very satisfactory reasons can be given for not having complied with it.

Article 5.

The application of this principle in the first instance will be necessary with a view to determine who are the parties, that by their persevering exertions however attended with disappointment, have established the first claim to the consideration of the Government.

It may become a question how far their reduced means may enable them to resume or continue their labours either in the situations originally assigned to them, or in more favorable ones ; but there can be no doubt of the justice of giving every practicable support to their claims.

Article 6.

Amongst the Settlers who failed in the fulfilment of the conditions of their emigration are many who resided on their locations for some time, and laboured to establish themselves, but from repeated failures and inability to support their families, have been compelled to abandon them.

Altho' such individuals have no positive claims to the resumption of their lands, it may be equitable generally to readmit them under certain conditions (which you are hereby authorized to do) that will be calculated to prevent inconvenience to those that had uniformly continued to reside. Such of them as may return with improved means of resuming their labour may merit a preference, and the conditions that it may be advisable to impose will be noticed hereafter.

Article 7.

A third class will include the numerous Applicants for land who abruptly abandoned their locations, or those of their employers, attracted by the high rate of Wages, which as Mechanics and Labourers they could elsewhere obtain. Small building allotments have already been granted to many at Graham's Town, the extension of this indulgence may be

beneficially recommended in Situations where they are enabled to get employment. In all applications for land from persons of this description who have abandoned their locations, and have no equitable title to resume them, an enquiry into the means they possess of occupying land with advantage may determine how far it would be expedient to accede to their views, or to promote in the manner suggested their adherence to the employments they had taken up.

Article 8.

Claims arising from disputed boundaries will be chiefly grounded on the changes alleged to have been made by Surveyors in the original locations. Where the merits of such claims cannot be determined by information obtained on the spot, or by the explanations of the Officers who were employed to locate the parties, you will endeavour to compromise them by offering an equivalent in land to either party who may be willing to accept it, or whose claim may be conceded with the least sacrifice or inconvenience, the object being *not to unsettle* more than may be avoided and yet to preserve strict justice as the Basis of every arrangement ; thus when anyone proves a claim to land on which another may have been long established, if he should be willing to accept an equivalent rather than disturb the other, he should be encouraged to do so.

Article 9.

The internal boundaries of locations were settled by the parties themselves, but as disputes and litigation have arisen, especially in cases of transfer or alienation you will take an opportunity for effecting a termination of these upon the spot, and for preventing their recurrence by more accurate and convenient definitions, or by reference to the District Surveyor.

Article 10.

In the application of the third principle or condition of emigration, viz. the disposal of certain Sums in deposit with the Government, the intended repayment to the parties of the

last instalments was prevented in most cases by the issue of Rations and of various Stores to the parties.

The Accounts having been kept with the heads or nominal Heads of parties, the revisal of them in detail will in some instances become necessary to meet the questions at issue.

Where the party was composed of hired servants the Master who advanced the deposits had a claim only to whatever balance may not be absorbed in the charge for supplies of Rations &c. to himself and his party. But in cases where it shall be made to appear that the British Government received a deposit thro' the nominal head of a party, from a person who may have died on the passage, or from unavoidable contingencies may not have reached the location, the repayment of the Sum deposited may be considered due to the Individual or to his legal representative even tho' the party at large may be indebted to the Government. The same principle may apply if in any instance it should appear that individuals who made the required advances for themselves should not have received Rations equivalent to the Sums they deposited, but such repayment would not be due to the Individual in any case where the Sum may have been advanced by a Parish in England.

Article 11.

Next to those who may be found to have any balances in their favour, or who may have discharged the balances due to them, are those who are indebted to Government in large Sums for the supplies they have received.

In the parties consisting of Servants, the responsibility of the Master for the whole amount has in some instances been disputed on the ground of their discharge, and the premature loss of their services. In conformity to rule, the Magistrate may have required the Rations to be drawn by the head of the party when he was present, but where the Servants were withdrawn from the Service of the Masters, or even where the reciprocal obligation of Servitude may not have been enforced, a relief from personal liability for their Rations may equitably be proposed, and the charge for his own Rations, and for Stores and implements received by him, will remain the only set off against the unpaid instalments of his deposit ; the land

however which would in strictness be forfeited must remain chargeable for the subsistence of the people for whom it was allotted originally to the Master. If on the other hand, the Master should be found to have enjoyed the Services of his people, or to have drawn Rations for them after their discharge or for others that he engaged in his employ during the time, this distinction cannot so fairly be claimed.

In cases where it can be made to appear that the Master has continued to draw rations for his Servants after their Discharge, the amount of such Rations must be brought against them or be made a charge upon his land.

Article 12.

In the other parties the rations were drawn by the nominal heads, who were not in all instances the original agents of the parties in their transactions with the British Government, but in either case, their release from personal responsibility for any part of the charge will depend upon their ability to account for their distribution of the Rations and Stores received by them. Of the persons to whom they were distributed, some may have died, and many have removed ; in both cases the land will devolve as the last Security to the Government for that part of the debt which the Sums on deposit for the Individual may be insufficient to defray.

Article 13.

The persons who remain in possession of the land will receive their title to it chargeable with their respective debts for Rations, Stores, and Implements received by them, and any dispute with the head of the party as to the quantity delivered to them, may be decided by reference to the Statements or evidence that either party can produce ; if none should be forthcoming, the objection to the charge may be overruled.

Article 14.

For the balance of the general Account with the Party after the several abatements have been made, the head of the party or person appointed to draw rations will remain directly

responsible ; and the amount will in like manner be chargeable, first against his deposit, and next upon the land to which he claims a title.

Article 15.

Those Settlers that were removed to the Albany district after being first located at Clanwilliam, were relieved by Government from the charge for Rations supplied to them up to the period of their arrival. The distribution of the Rations subsequently issued to them will however remain subject to your investigation. Upon the same principle the removal of parties and individuals from the Lands originally assigned to them within the Zuureveldt (as it has been a subject of complaint) may be a just ground of relief from the charge for whatever time they may have lost by such removal. In all these cases the parties will be held still indebted for the stores they received.

Article 16.

In a few instances, Rations were issued to parties, who having paid their own expenses of Passage, in England, came to the Colony as independent Settlers with the sanction of the Secretary of State, having paid no money in deposit with Government the debt will remain a charge upon the land, which in other respects they have been entitled to receive exempt from the limitations and conditions to which the emigrant Settlers were made subject. Lieut. Daniels and Lieut. Rubridge of the Royal Navy are thus circumstanced.

Article 17.

Altho' the head or nominal Head of the Party may in many instances have signed the Ration Account to enable him to receive the Title deed of the Location, it will not be the less expedient to distribute the charge, and to take that Security on the land which those individuals have hitherto held at their own disposal, on a plea of personal liability for a debt which they may neither have the means nor the prospect of being able to discharge.

Article 18.

As the large amount of the aggregate debt, and the extreme poverty of the Settlers, must render the eventual recovery of it extremely precarious, the end of your investigation will be best attained by the most liberal consideration for the parties who may be able to establish any equitable claim to relief, altho' it is only by an investigation conducted upon a principle of strict and impartial justice that the British Government will be enabled to exercise a just discrimination in the future indulgence of its liberality.

With regard to the measure of augmenting the grants in consideration of the land being incapable of maintaining a population by cultivation alone, it has been considered that such additions to the locations of parties would be most advantageously made by conferring upon them a right of commonage upon those lands that are contiguous.

Article 19.

If the uncultivated pasture lands of the district should be generally estimated to bear in the proportion of one head of cattle to every ten acres throughout the year, the extension of each location may be regulated by the number of resident Settlers upon it, and by the proportion of Cattle that each Individual may require to keep for manuring the arable land he brings into cultivation.

If it may not in all cases be found practicable to make the required additions from unappropriated lands contiguous to the locations, they will have to be sought for at a distance, unless the neighbouring proprietors may be induced to give up what would be required, and to receive other lands that might be offered to their acceptance as an equivalent.

Article 20.

Additional grants have already been made to the heads of some of the parties, and in a few instances these have been increased and the titles have been received.

In the event of further claims on their part, or of application from other individuals of parties for separate grants it would

be desirable that you consider them with reference to the convenience of larger parties, in order that their general exertions may not be cramped or their prospects discouraged.

Article 21.

The diagrams of the locations (copies of which as well as of the general plan will be forwarded to you) affording no information, except of the general extent and boundaries, it might eventually be desirable that you should authorize the Surveyor to undertake the detailed Surveys of such of them as have been disputed, marking the internal boundaries that may finally be determined, and affording the information generally, that the plans of Villages are calculated to do, for the purpose of regulating and facilitating the alienation and transfer of property.

Article 22.

The application of the Transfer Regulations may also be a question of some moment with the Settlers who have adhered to the locations, especially in respect to the holders of small allotments.

Article 23.

A claim has in some instances been advanced by half pay officers to receive 500 Acres of Land in virtue of their Commissions, but altho' it appears to have been recognised in some instances by the Acting Governor Sir R. S. Donkin no previous or subsequent sanction for it has been found in the records of this Government. You will therefore consider such Claims with reference to a more general principle, and it may be worthy of remark that the individuals who advanced the Claim have had no intention of confining their views to the possession of such limited grants.

Article 24.

Before closing these Instructions it may be well to refer you to Earl Bathurst's Despatch of the 24th of June 1820 (a copy of which is herewith enclosed) addressed to Sir Rufane Shawe Donkin, and altho' it does not appear that any reser-

vation of land in the appropriation of the locations was made in consequence of the Instructions contained therein, you will avail yourself of any land that may be disposable from persons having quitted the party or other circumstances for the purpose of a Glebe agreeably to His Lordship's commands, which Glebe land may until a Clergyman shall be appointed to the locations be appropriated as a commonage.

Cape of Good Hope, 21st May 1824.

(Signed) CHARLES HENRY SOMERSET.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 21st of May 1824.

MY LORD,—I have the honor to transmit to your Lordship Copies of two Letters addressed by a person calling himself Wm. Edwards (which I suspect to be an assumed name) to which I have annexed Marginal Notes in explanation of the most flagrant insinuations contained in them. This person has under the same name been already brought under Your Lordship's notice in a petition addressed to the House of Commons against the Fiscal of this place which he stated to have forwarded to Mr. Charles Wynne and Mr. Grey Bennett.

As the incoherent attacks made in these letters were pointed at myself, I should have been well pleased to have treated the Author with Silent Contempt, particularly as he is by some considered as far from being in sane mind; but having referred them to the Chief Justice, he strenuously urged my placing them in the hands of H.M.'s Fiscal for prosecution, considering that I should neglect the true interests of Government as well as the dignity of the station His Majesty has done me the honor to confide to me if I permitted them to pass unnoticed.

The result of the prosecution has been, the transportation of Wm. Edwards as a Convict to New South Wales for 7 years. The prisoner drew this heavy sentence upon himself in consequence of having in the course of his trial aggravated his offence tenfold, by the most violent, calumnious and oppro-

brious expressions with which the English Language could supply him, asserting the grossest and most infamous falsehoods. His trial was (agreeably to the legal Process here) held before two Commissioners of the Court of Justice, whose conduct in permitting a Criminal to divert from the charge under trial, and indulge in a strain of Falsehood and calumny hitherto without precedent, will probably be brought before Your Lordship when the necessity of forming a Court of Judicature here, composed of professional men only, shall be submitted for Your Lordship's consideration ; which necessity (from the change which has taken place in the species of Population at this place within the last twelve months) becomes every day more apparent. I have &c.

(Signed) CHARLES HENRY SOMERSET.

P.S. Wm. Edwards has noted an appeal to the Full Court against the Sentence passed on him.

[Copy.]

Removal of the Drostdy from Tulbagh to Worcester.

CHURCH STREET, TULBAGH, 18th May 1824.

Five Gentlemen—Pieter Theron and Jacob de Bruin, formerly Heemraaden, Hendrik Mulder, Pieter Joosten, and Pieter Theron—waited on the Commissioner for the purpose of repeating the representation already made by certain Inhabitants of Tulbagh to the Commissioners at Cape Town shortly after their arrival in the Colony upon the subject of the losses sustained by the Inhabitants of Tulbagh in consequence of the removal of the Drostdy to Worcester.

They agreed with the Commissioner that the inconvenience consisted principally of the distance they had to travel to Worcester, the detention occasioned by the swelling of the Breede River, and the expence that was to be incurred in erecting new Buildings.

Little advantage was derived from waggons passing through or near the Town of Tulbagh to the Cape.

These Gentlemen insisted that the Drostdy had been built by the contribution of the inhabitants in labour.

Respecting the small increase of Houses in the Village, the Commissioner expressed his doubts whether the water could be led out to the Erven situated upon the upper part of the hill, and that this circumstance might have effected the occupation of them, since the sale of 8, one of which only was built upon. None of these gentlemen could say in what year these Erven were sold.

The gentlemen then brought under the notice of the Commissioner the increase of Taxation in the District during the last three years, the establishment of a tax upon Slaves, and one of the gentlemen—Mr. H. Mulder—stated that the diminution in his opgaaf this year had been very inconsiderable.

Tulbagh, 21st May 1824.

Messrs. Gert du Toit and Willem J. Joosten, inhabitants of the Cold Bokkeveld, complain of the inconvenience arising from the removal of the Drostdy to Worcester, on account of the increased distance. They are obliged to repair to the Drostdy for payment of the Opgaaf, Vendue Money, for purposes of justice, &c.

They live 18 and 16 hours (horseback) from hence, and are obliged to pass by the Witzenberg Kloof to Worcester. Waggons come by that pass, if it is in good order they take out half of their cargo, if it is bad they take out more. It can be much improved. The Bokkeveld is a cold district, in the winter the cattle must be removed, and they descend to the Karroo. The Frost in some years destroys their Wheat.

G. du Toit says that he contributed 10 oxen, a leader and driver, for eight days towards the sending of materials for the Drostdy House at Tulbagh, thinks it was worth 12 Rds. per day. The carts were employed in sending stones and earth, which were found at $\frac{1}{4}$ of an hour's distance from the Drostdy.

The Opgaaf of this year is somewhat less than that of the two preceding years.

Tulbagh, 21st May 1824.

John Hendrik Nolte, states that he resides at the 24 Rivers, was a field cornet many years ago, represents the great inconvenience felt by the Inhabitants of that part of the District

in consequence of the removal of the Drostdy ; they wish to be incorporated with the Stellenbosch District. Complains of the heavy Taxation in the District, and its great augmentation since 1815.

Tulbagh, 21st May 1824.

Mr. Mohr presents a Memorial of the Inhabitants of the Town of Tulbagh—Mr. J. P. Mohr, Mr. Mulder, Mr. Mohr, Mr. De Bruin, and Mr. D. Malan—against the removal of the Drostdy to Worcester. Some of the Inhabitants of the Town possess Lands and Erven in the vicinity.

The Kerkenraad applied to Government for leave to sell 18 erven on the line of street behind the village. Permission was given by the Government, but the sale was delayed.

Tulbagh, May 18th 1824.

SIR,—We the undersigned Inhabitants of the Church Street and Old Drostdy, Tulbagh, request particularly that Your Honor would state our interests to H.M. Commissioners of Inquiry to have a Sub Drostdy here, for our incomes at present are almost reduced to nothing, and our property is not half the value as 3 years ago, being obliged to depend solely upon our small premises for a livelihood and the occasional concourse of people in paying their Taxes and celebrating Marriages &c., but when nothing of this kind takes place our failure must be the consequence, while the most of us are heavily involved in debt, which debt is occasioned by us establishing ourselves close by a Drostdy.

We depend that Your Honor will bring these our interests so much as lies in your power to the knowledge of the Commissioners of Inquiry.

Signed by 32 Inhabitants.

To Mr. J. D. Mohr, Wardmaster.

Tulbagh, 20th May 1824.

Messrs. J. de Clerck, field cornet this side 24 Rivers, Mr. B. F. Burger, field cornet over 24 Rivers, Mr. E. L. Marais, field cornet Breede River. J. de Clerck and B. F. Burger, in their own names and in that of those of the Inhabitants of their Districts, request that the Drostdy may be at Tulbagh and not at Worcester, on account of their having to pass the

24 Rivers, which has many branches, the Kleine Berg River near the Roodezands Kloof, and the Breede River, which in winter are always full. This inconvenience is felt particularly by them as Veld Cornets in taking and conveying Prisoners.

A complaint was laid within the last 15 months against B. F. Burger by a Hottentot. He was summoned to attend the Landdrost at Worcester to answer it, he wrote to the Landdrost that considering the complaint of the Hottentot groundless he had not attended. He was condemned in the costs, which amounted to Rds. 54. The water did not hinder him from going. No other instance occurred in which he was impeded. July and August are the two months in which the rain falls. In coming in a waggon from his District (24 Rivers) he has to pass both the 24 Rivers and the Kleine Berg River. They are both bad Rivers on account of the depth of water and the quicksands. The Inhabitants have 16 streams to pass in going to the Cape, they do not come by Tulbagh.

J. de Clerck states that his Inhabitants would prefer being incorporated with the District of Stellenbosch, to which they are nearer, and the roads better. The Inhabitants of his Veld Cornetcy never before applied to the Government or the Landdrost to be transferred to Stellenbosch. A Deputy Landdrost at Tulbagh would answer the object of the Inhabitants and prevent the inconvenience they complain of.

This side of 24 Rivers is Four Hours from Tulbagh on Horseback. Over 24 Rivers is Four Hours on Horseback by a footpath and Six Hours with a Waggon by the Roodezand Kloof.

B. F. Burger complains of the increase of Taxes in the last Three Years. This Year the amount has been diminished. Last Year he paid 170 Dollars and this Year 148.

Veld Cornet Marais wishes for the Establishment of a Sub Drostdy at Tulbagh.

Tulbagh, 22nd May 1824.

The Churchwardens of Tulbagh waited upon the Commissioner and represented that since the removal of the Drostdy to Worcester some of the privileges of the Church have been taken away. The publication of the Banns of Marriage always took place in the Church of Tulbagh, from which the Clerk and Messenger received fees. These are now taken away and

transferred to Worcester, in cases of necessity the Publication of Banns may take place twice in one day, but it is generally done on separate days. The Clerk at Worcester publishes the Banns of Marriage.

These and other privileges were represented by them to Captain Trappes as Political Commissioner in a Letter dated the 19th August 1823, but no answer has been received. Mr. Conradie and another Heemraad were informed of the Opgaaf by Mr. Poggenpool, that the Breede River was fixed upon as the Boundary. They do not approve of it as a Boundary, thinking it too near the Church of Tulbagh. The Breede River is about four hours distant from Worcester on horseback, and from Tulbagh two hours. The Clerk and Sexton have houses in their villages. The Clerk receives nothing from the Church, but from the Government a salary of 400 Rixdollars as Schoolmaster. He has Fees attached to his situation of Clerk. The house in which he lives is the property of the Church.

The Funds of the Church arise from Collections and Donations and from Fees on Burials. Fees on Marriages and Christenings they do not receive, they are paid to the Sexton and Clerk. The Clergyman only receives Fees on Marriages solemnized on the Week Days.

The Sum now paid to the Poor amounts to 414 Rds.

The Church at Tulbagh is quite large enough for the Congregations that attend it. Mr. Theron said that he has never seen it above half full. They are much diminished in consequence of the attendance at Worcester. Every two months the Clergyman at Tulbagh does duty at Worcester.

The Church Wardens also represent the mischief arising from keeping the Canteen open on Sundays. The Servants of the Inhabitants who attend Church repair to the Canteen instead of going to Church and get drunk and commit many irregularities.

Tulbagh, 23rd May 1824.

J. F. du Toit, Veld Cornet of the Cold Bokkeveld, and in the name of the Inhabitants of his District, complains of the inconvenience arising from the removal of the Drostdy to Worcester, and of the heavy Taxation. Presents his Tax Paper of 1822 when he paid Rds. 52 5 sks., and that of 1823

on which he paid the sum of Rds. 90 2 sks. 2 sts. In the latter year his return of slaves was increased by 4, in other respects the property in 1823 had been very little encreased. It was general in the District. The Inhabitants are made to pay the Church Tax of 4 Rds. for each place for Worcester, altho' they did not pay it before for their Church at Tulbagh. It was levied this year for the first time. From the Bokkeveld the distance to Worcester is 14 hours, and to Tulbagh only five. There are 60 male Inhabitants in his Field Cornetey. In the Winter they all remove into different parts of the Karroo, where they remain for four months.

(Signed) JOHN GREGORY, Secretary.

[Copy.]

Letter from P. G. BRINK, ESQRE., to W. HAYWARD, ESQRE.

COLONIAL OFFICE, 24th May 1824.

SIR,—I am directed by His Excellency the Governor to acquaint you, that, taking into consideration the numerous subjects at issue between the British Settlers and the Government, as well as between Individuals, and considering that the minute Investigation that will be required in order to make a fair and equitable adjustment of these Cases must necessarily occupy a greater portion of time than it would be practicable for the local Magistrate to appropriate to it, in justice to the daily duties of his Office, His Excellency has decided to appoint you to be Special Commissioner for the execution of this important Duty, and George Marsh Esquire, to be Secretary to your Commission.

I have the Honor herewith to transmit to you Instructions which His Excellency has drawn out for your guidance, and to request that you will be pleased to confer in the fullest and most unreserved manner with the Landdrost of Albany upon all matters upon which you may require information or reference. I have also the Honor to forward to you the whole of the Instructions and Correspondence received from His Majesty's Government, relative to the establishment of the

British Settlers in South Africa : and His Excellency trusts that with the assistance of the Documents now handed to you, and that which you will receive from the Landdrost of Albany and the Government Surveyor of the District (who is directed to lend his aid to you on all occasions) that you will be enabled to attain the objects in view without any serious difficulty, and with satisfaction to the Parties interested :— and although the fair claims of Government are not to be lost sight of, His Excellency has no hesitation in authorising me to say, that, in making your decisions, the construction the most favourable to the Settler should in all cases be adopted, the severe visitations of successive Blights and Tempests entitling him to that Indulgence. His Excellency has solicited authority from His Majesty's Secretary of State for the Colonies to make you a compensation of Ten Rixdollars per Diem, and of Four Rixdollars per diem to the Secretary of your Commission, exclusive of the absolute Expences of Conveyance and Stationery. I have &c.

(Signed) P. G. BRINK, Asst. Secretary to Govt.

[Copy.]

*Letter from the Colonial Medical Inspector to the
Acting Colonial Secretary.*

COLONIAL MEDICAL INSPECTOR'S OFFICE,
24th May 1824.

SIR,—In reply to the Memorial of the Merchants and Traders respecting the examination of Patent and other Medicines, &c., &c., I beg to say that the examination of Medicines by the Colonial Medical Inspector does not extend to analyzing the Medicines imported, but simply to ascertain whether such medicines exactly answer the Invoice, and whether they be spoiled in the passage.

The form is, the Colonial Medical Inspector with his Secretary attends to examine in the presence of the Owners or other persons deputed by them, the medicines as delivered from the Custom House. If the Package, Bottles, &c. be in a good state they are passed, but if any package or bottle be broken

and the Medicine therein contained be spoiled, the Inspector refers to the owner or his substitute as to the state of the Medicine, and if this Gentleman agrees that it is spoiled, then the Inspector or his Secretary sees it destroyed, but if the Owner or his Friend says he thinks it is not spoiled, then the Inspector would necessarily refer the matter to a Board, but since I have been performing this duty I have never had a difference of opinion with any of the Merchants whose Medicines I have examined. However should the Merchants wish for other means, they are at liberty to employ any Medical Man or Men to attend the inspection, by which Government will incur no further expence and they be satisfied. It is only necessary to say that all the Medicines in this Colony have been inspected by a single Individual during the last 11 years.

With respect to Merchants or Traders not being professional men retailing Halsche, Patent or other Medicines, I beg most distinctly to give it as my most decided opinion, and the opinion of every regularly educated professional man in this Colony, that much mischief arises from the indiscriminate use of Medicines sold by persons unacquainted with the nature of Drugs or the effects produced by various medicines upon the Human Frame, and therefore cannot give the Purchasers the most distant idea in what cases certain Medicines are to be avoided or taken, and in the event of mischief cannot have recourse to a single antidote. Whereas a Medical man vending these medicines does (and it is his bounden duty so to do) say the probable effects of such Medicine altho' he does not exactly know the component parts, yet experience shews the nature of the Drugs, and in the event of accident he is prepared to apply some remedy, at all events he is calculated to give some necessary information and caution to the purchaser which other Individuals do not and cannot be expected to know. I shall still further add that to my certain knowledge many persons have been poisoned by patent Medicines given improperly, and also that Pedlars and Hawkers of Drugs in the Interior and in Cape Town do more real injury to the Inhabitants than the most virulent Diseases themselves, moreover a regularly educated Man cannot with justice to himself or the Community settle in the Interior when Quacks and Quack Medicines are first resorted to.

It would be endless to state the various injuries arising from the retail of Patent or other Medicines by any other Persons than regularly educated Practitioners, I therefore shall content myself by explaining that *His Majesty's Letters Patent* are for making and compounding, not Vending certain Medicines.

I have &c.

(Signed) JAS. BARRY, M.D.,
Colonial Medical Inspector.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 25th May 1824.

MY LORD,—I have the Honor to transmit to Your Lordship Copy of a letter and Enclosure from the principal Inhabitants at Port Elizabeth (Algoa Bay) respecting the erection of a Church at that Place, and I take the liberty also of transmitting thro' Your Lordship, letters addressed by the same Persons to the respective Societies in England, to aid this very useful and laudable undertaking. I trust your Lordship will afford them every support ; I conceive that the Work might be completed for about £3000 Sterling. I regret to say that the numerous Buildings and Establishments indispensable in Albany have rendered it impossible for me to undertake the erection of a Church at present at Port Elizabeth out of the Colonial Funds ; should the Inhabitants with the aid they may receive from Home be able to effect their object, I have no doubt Your Lordship will be pleased to authorize the appointment of a Clergyman at the public Expence. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure 1 in the above.]

PORT ELIZABETH, 26th April 1824.

MY LORD,—We have herewith the honor to enclose for your perusal Letters which we have addressed to the several Societies in London, soliciting their support in the erection of a Church

at this Place, and humbly hope you will be graciously pleased to forward the same, recommending our situation to their consideration.

We have also taken the liberty of transmitting you a copy of the resolutions passed on the subject, with a List of Subscriptions to this date, and beg to return you in the name of the Inhabitants our most hearty thanks for the kindness you have shewn their Memorial. We have &c.

(Signed) F. EVATT, Commandant,
THOS. PULLEN,
JOHN DAMANT,
THOS. WILLIAMSON,
ANDW. NICOL.

To His Excellency
The Right Honorable General
Lord Charles Henry Somerset.

[Enclosure 2 in the above.]

At a meeting of the Inhabitants of Port Elizabeth held this day at the Red Lion Tavern for the purpose of considering the most speedy and effective means of erecting a place of Worship—the Commandant by particular desire in the Chair—when the following resolutions were unanimously entered into.

Resolved, That the Thanks of the Inhabitants be given to His Excellency the Governor for His gracious Reply to their Memorial of the 20th February on the above subject, wherein he states having ordered: “That measures will be taken for building a school forthwith” and also expressed himself happy in having a church erected but regretted that the want of Funds prevented him at present.

Resolved that a subscription be immediately entered into, for the purpose of building a Church and that J. W. Stoll Esquire of Cape Town and Mr. Henderson of Uitenhage be requested to receive the same in their respective places, and that Mr. J. A. Chabaud be appointed Treasurer, that the Sums received be deposited by him monthly in the Lombard Bank.

Resolved, That the Five following Gentlemen be appointed a Committee to carry into effect the object of this meeting :—

Captain Evatt, Commandant of Port Elizabeth,
Messrs. Thos. Pullen,
Jno. Damant,
Thos. Williamson,
Andw. Nicol.
Benjm. Green, Secretary.

Resolved, That for the mutual accommodation the morning be devoted to the Service of the Church of England, and the afternoon to the Dutch Reformed Church.

Resolved, That publicity be given to this day's proceedings through the medium of the *Cape Gazette* and *Commercial Advertiser* that a more extensive aid may be obtained for the furtherance of its laudable intention.

Resolved, That the Thanks of the Meeting be given to the Chairman for his zeal and perseverance in promoting an object so greatly to be desired by the Inhabitants of the Village and its neighbourhood.

Port Elizabeth, April 26th 1824.

(Signed) BENJAMIN GREEN, Secretary.

[Enclosure 3 in the above.]

A List of Subscribers for erecting a Church at Port Elizabeth to this date 26 April 1824.

	Rds.	sk.	st.
Captain Evatt	100	0	0
John Craig, Esqre;	100	0	0
J; Pullen, Esqre;	100	0	0
John Williamson, Esqre;	100	0	0
John Damant, Esqre;	100	0	0
J. C. Welsford	200	0	0
Captain Herbert	100	0	0
Mr; Chaubaud	100	0	0
Mr; Wyatt 200 ft. Square Timber equal to	150	0	0
Mr; Nicol	50	0	0
;; Green	50	0	0
;; Hitze	50	0	0
;; Camm	50	0	0

		Rds.	sk.	st.
Mr. P. J. Botha	13 Muids Lime equal to	52	4	0
„ S. Hartman	„ „ „ „ „ „	12	0	0
Do.	10 Muids Lime	35	0	0
„ A. J. Muller	„ „ „ „ „ „	25	0	0
„ J. & T. Younger	„ „ „ „ „ „	30	0	0
„ Dunn	„ „ „ „ „ „	20	0	0
„ Peter White	„ „ „ „ „ „	20	0	0
„ Burchell	„ „ „ „ „ „	50	0	0
„ John Carter	„ „ „ „ „ „	10	0	0
„ John Cronk	„ „ „ „ „ „	10	0	0
„ Charles Gurney	„ „ „ „ „ „	10	0	0
A Friend	„ „ „ „ „ „	10	0	0
Mr. S. Phelps	„ „ „ „ „ „	10	0	0
Mr. Lovemore	25 Muids Lime equal to	87	4	0
Mr. Henry Evatt	25 Muids Lime equal to	87	4	0
Proprietor of the Circular Saw Mill at Cradoek				
Town	2000 feet Inch plank equal to	333	2	4
		Rixdollars	2052	6 4

(Signed) JOHN ANTY. CHABAUD, Treasurer.

[Original.]

Petition for a Free Press.

To the King's most Excellent Majesty in Council.

The Memorial of the Undersigned dutiful, faithful and loyal subjects, inhabitants of His Majesty's Colony of the Cape of Good Hope, Humbly Sheweth,

That the advantages of a free press are so numerous and important that it has ever been regarded by the best writers in our own country and on the Continent as the firmest support of a just and enlightened Government and the great palladium of the liberties of a people. All History proves that Religion and morals, Literature and Science, with every art and institution that adorns or ennobles human nature, are alike indebted for their extension and influence in Society to the privilege of freely discussing every subject that can come within the range of the human mind. The exercise of this privilege is so congenial to the feelings and habits of a free people, that it cannot but be a matter of deep anxiety to your Memorialists that it should

be enjoyed in this as well as in other Colonies of the British Empire.

Your memorialists are aware that in the remote and extensive possession of British India, considerations connected with the peculiar tenure by which that vast Empire is held, have rendered it a matter of political expediency to abridge the liberty of free discussion in matters connected with the politics of the country. But they humbly submit that there is nothing analogous in the nature of our Establishment in South Africa to render it necessary to impose similar restrictions on the freedom of the press here.

Were this even a great Slave Colony; were the Slaves, instead of being few in number and scattered over a vast extent of country, more numerous than the white population, or so situated as to be capable of making a simultaneous movement against the peace and order of Society, there might perhaps be some grounds for restraining the expression of public opinion.

But as no danger is to be apprehended either from the number or condition of the Slave population, no objection arising out of this being a Slave Colony can be made to the diffusion of political knowledge, and to fair and temperate discussions on the constitution and measures of Government amongst all classes of the people.

Your Memorialists trust it will not be considered improper or irrelevant to the prayer of their memorial to state that a weekly paper was established in Cape Town in the month of January last; that it met with considerable encouragement and support from all classes of the people, and was a source of rational entertainment and much useful information to the public. It proceeded without interruption or any official expression of the disapprobation of Government till the present month, when without any judicial investigation the paper was suddenly suppressed and the Publisher ordered to quit the Colony.

It may be further observed that a magazine devoted chiefly to matters connected with the improvement of the Colony has been discontinued by the Editor in consequence of the Fiscal's interference in its management.

Your Memorialists do not refer to the circumstances for the

purpose of expressing any opinion on these acts of the Colonial Government—they do not presume to prejudge cases that will no doubt come under investigation by the proper authorities in England; but they consider that the circumstances under which the late Publisher of the Newspaper has been ordered to leave the Colony, are such that no respectable person will venture to come forward and conduct a paper without having a security that his person is not liable to violence and his property to seizure, without his being found guilty of some crime by the sentence of a Court of Justice.

Your Memorialists believe they could demonstrate by referring to facts and transactions that have occurred in this Colony as well as by an appeal to History and Experience, that the best interests of the country—the diffusion of useful knowledge—the elevation of the standard of morals—the extinction of National prejudices—and the gradual amalgamation into one people and character of all classes of His Majesty's subjects, would be eminently promoted by the establishment of a press unfettered by any restrictions or penalties except such as the law of England imposes on the abuse of so important a privilege.

But His Majesty's Commissioners of Inquiry having been very fully addressed respecting the state of the press your Memorialists refrain from enlarging further on the subject, trusting that the wise and liberal policy by which Your Majesty's Government is distinguished, will not withhold from your Memorialists the blessings of a free press, the birthright of Englishmen and the firmest support and Glory of their native country.

And your Memorialists will ever pray.

Cape Town, Cape of Good Hope, 26th May, 1824.

(Signed)

STEPHEN TWYXCROSS,
J. H. WHISTON,
EDWD. FLAHERTY,
GEO. McLACHLAN,
THOMAS HART,
JNO. MACFARLANE,
J. B. HOFFMAN,

J. RANDALL,
JOHN ANTY. CHABAUD,
DANIEL O'FLYNN, M.D.,
HENRY STEWARD,
JAMES HOWELL,
THOMAS STOREY,
EDWARD TWAITS,

B. WILMOT,
J. ROBERTSON,
THOS. HALL,
JAMES LONDON,
J. MANL. BRUELLES (?),
JAMES MORTIMER
MAYNARD,
JOSEPH MAYNARD,
R. W. EATON,
H. E. RUTHERFOORD,
E. K. GREEN,
D. P. FRANCIS,
JOHN FINDLAY,
JOHN LOCH,
JAMES CAUVIN,
J. P. SCHIKKERLING,
JOSEPH OLDHAM,
JOHN AMBER,
DANL. DISANDT,
C. VAN RENEN,
F. G. FAREWELL,
JOHN H. TREDGOLD,
J. N. COLIJN,
W. MILLER,
WILLIAM WOODMAN,
WM. HAWKINS,
JOSEPH GREEN,
HENRY POPE,
THOS. FAIRCLOUGH,
JOHN H. WILLS,
JOHN TOWNSEND,
W. M. BARBER,
EHRENDRIED HENNIG,
J. P. SIMPSON,
H. RUTHERFOORD,
WM. DAWES,
THOS. TENNANT,
JOHN LEIGH,
R. STONE,
DANL. DIXON,

W. M. HOPLEY,
THOMAS GRIMES,
WILLIAM CAIRNCROSS,
THOS. THWAITES,
JOHN BRUMFIELD,
W. HARRIS,
MATTHEW FYSH,
WM. WHILEY,
JOHN BATTIE,
JAMES SCOON,
R. J. JONES,
W. BLAIR,
EWAN CHRISTIAN,
JOHN HAWKINS,
HERBERT PUGH,
(Illegible)
J. N. RUSSOUW,
JAS. FLAHERTY,
HENRY DRAY,
B. BURNETT,
WM. F. SILBERBAUER,
GEORGE TWYXCROSS,
THOS. PHILLIPS,
ROBERT SINCLAIR,
JOHN GRIFFITHS,
FRANCIS EDWARD POWLEY,
JOHN ROBERTS,
ALEX. DAVIDSON,
CHARLES PICKMAN,
EDWD. ROBERTS,
GEO. ANDERSON,
W. HEIJDENRIJCH,
CHAS. KINCAID,
JOHN COLLISON & Co.,
J. BARKER,
LUD. TOUSSAINT,
FRANS MABILLE,
WILLM. FLEMING,
JNO. CARNALL,
S. E. HUDSON,

J. WHISKIN,
 P. M. TESSELAAR,
 S. DE KOCK,
 JOHN VAN DEN BERG,
 D. C. HOFFMAN,
 WILLIAM BEDDY,
 W. F. HELDZINGEN,
 A. CHIAPPINI,
 WM. LUNTRING,
 PETER TONKIN,
 LEVI MAYNARD,
 JOHN WARDEN,
 JOSEPH ARROWSMITH,
 A. REEVE (?),
 JOSEPH DIXIE,
 W. R. THOMPSON,
 THOMAS FOWLER,
 WILLM. HUTCHONS,
 J. W. KEMP,
 ROBERT SWAN,
 JOHN CURRAN,
 THOS. PARKER,
 WM. POPPLEWELL,
 THOS. PRINGLE,
 DAVID STILL,
 CHAS. MCKENZIE,
 WM. MASKEW,
 J. D. KLINCK,
 GEO. GREIG,
 FORBES STILL,
 ALEXANDER THOMSON,
 JOS. SIMPSON,
 M. VAN BREDa,
 PETER LAING,
 J. A. JOUBERT,
 F. BERNING,
 J. J. WIID,
 J. H. LESAR,
 M. V. BLERK,
 M. J. SMIT,

JOHN BROWN,
 JNO. DEANE,
 J. F. PENTZ,
 S. BRINK,
 CHAS. MAYNARD,
 P. LAING,
 G. P. WEND (?),
 F. VAN DER SPUY,
 C. HOFFMAN,
 N. HAITs, (?)
 F. M. THEUNISSEN,
 JAMES MOLTON,
 W. CORBITT,
 N. C. WOLFF,
 J. E. TREDoux,
 P. N. DE VOS,
 PHILIP MCLACHLAN,
 F. L. TOWNSEND,
 M. J. PENTZ,
 J. LANGLEY,
 JOHN MCLACHLAN,
 LAWRENCE KAEVER (?)
 W. D. READ,
 D. ROSS,
 W. MECEY,
 EDM. L. KIFT,
 JAMES SHERMAN,
 WILLM. SOPPITT,
 J. R. THOMPSON,
 D. JORDAN,
 CHARLES STUART PILLANS.
 THOS. INGLEDEW,
 GEO. LUCK,
 PETER DE MOLDRUP,
 J. H. STADLER,
 JAMES NEIL,
 THOS. MORGAN,
 B. C. BERNING,
 EDWD. ROBERTS,
 J. ATHERSTONE,

JAMES ABERCROMBIE,	WM. THOMSON,
H. DE WET,	W. EDWARDS,
E. HOPKINS,	P. J. WANNENBURG,
ROBERT YOUNG,	J. B. GRAY,
THOMAS LOFTUS,	A. GRAY,
ROBERT SHORT,	A. BLAINY,
JESSE MARCH,	ALEX. DICK,
NICHOLAS LAKE,	JOHN GEORGE CAUMIS.
THOMAS DRY (?)	THOMAS GREGAR,
R. DYKE,	N. J. RUSSOUW,
J. INGRAM,	J. C. EKSTEEN,
JOHN FAIRBAIRN,	EDWD. GERRARD,
JOSEPH LEVICK,	THOS. W. DOUGHTY,
JAMES ARCHBELL,	JABEZ HART,
D. L. BUCK,	P. M. RING,
A. S. ROBERTSON,	GEO. THOMPSON,
(Illegible.)	G. J. VOS,
HK. CLOETE,	SAMUEL BAILEY.

[All possible care has been taken to give these names correctly, still a few may not have been accurately made out.—G. M. T.]

[Copy.]

*Letter from the Acting Colonial Secretary to the
Chief Justice.*

COLONIAL OFFICE, 28th May 1824.

SIR,—His Excellency the Governor has directed me to transmit to you the accompanying copy of a Memorial from Mr. C. F. Liesching, soliciting permission to practise as a Chemist and Druggist in this Settlement, and annexing the Certificate usually required for these arts, and to request that you will be pleased to consider the same, and report thereon for his information. I have &c.

(Signed) P. G. BRINK.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 29th May 1824.

MY LORD,—I have to instruct your Lordship that you will take measures for removing the Reverend William Geary from the Clerical employments which he holds in the settlements under your Lordship's Government. I have &c.

(Signed) BATHURST.

[Original.]

Letter from MR. CHARLES D'ESCURY *to the* COMMISSIONERS OF ENQUIRY.

INSPECTOR OF LANDS AND WOODS OFFICE, 29th May 1824.

GENTLEMEN,—When I attended at your Office on the 27th inst. you informed me to have received from my Lord Bathurst certain communication on the subject of some of the papers I have had the honor of laying before you, and from which the following passages are quoted.

“Now it is a fact that the only Stock that has been imported for a very considerable time, are Horses, and of these His Excellency is believed to be the only Importer. They are sold by His Excellency to different Individuals at very high prices, and in particular also to these Government Farms, a circumstance in a general point of view much to be regretted since it affords matter for observations, which detract from that respect which every well-meaning subject wishes to see felt for, and expressed towards the Governor of the Colony, as His Majesty's Representative.

“In Illustration of this two instances much in point present themselves which though only considered as accidental coincidences are still striking and much to be lamented; the two most important cases adduced in support of the Suggestion to establish a check upon the grants of Public Land are those of

the Hantam, (the Widow Louw, and Redelinghuys, her second husband,) and that of the Bonteberg, (Mr. Proctor) the former, some short time previous to the grant, bought of His Excellency a Horse for which was paid the enormous Sum of Rds. 10,000, the latter has both before and after the transaction respecting the Bonteberg made different purchases of His Excellency, it is said to a considerable amount, which circumstances have naturally given rise to remarks of the description alluded to."

The construction it has pleased My Lord Bathurst to put upon the foregoing passages, you have, Gentlemen, informed me to be, that it is an "unreserved charge against His Excellency the Governor for having corruptly made an extensive grant of Land to Mr. Redelinghuys, in consideration of the sale of a Horse," with further instructions to you to institute a solemn investigation upon this charge, and to call upon me, to substantiate the same; together with no unintelligible allusion to the consequences that may attend my failing therein.

Gentlemen, I most unequivocally disavow the remotest intention of making such a charge, I equally disavow having in the slightest degree contemplated to convey even the meaning of such a charge; nor, with deference I beg leave to express it, does it appear to me that the above passages, *when read in their relation to the case to which they belong, and the occasion on which they were written*, are at all susceptible of the interpretation so given to them, and I beg leave to assure you that if I had entertained the opinion, that the motive which this *interpretation ascribes to His Excellency* had been the one by which he was actuated when he made the grant in question, and that together with such an opinion I had felt the necessity of communicating it, be assured, Gentlemen, I would not have stooped to mean insinuations, I would not have left it to be *inferred*, I would not have thrown on others the odium of interpreting it, but I would boldly and fearlessly have declared it, actuated by the same spirit, and by the same sense of duty by which I have been actuated throughout the several communications I have made to you, and with a firm reliance on that protection to which a faithful discharge of such duties, *at the call of the Country, and the special command of His Majesty to assist the present Commission in its enquiries*,

give me a right to look with full confidence. Allow me, Gentlemen, for a moment, to advert to the above transcribed passages. They are extracted from a paper containing observations on the establishment of the Groote Post, having for object to show the misapplication of an extensive tract of Land retained for that Establishment, the administration of which rendering it, in my opinion, desirable that it should be broken up, and the Land made disposable to more useful purposes than those for which it is now retained. To substantiate this, and to justify a recommendation affecting His Excellency's *agricultural* administration of that Establishment, it was necessary to show some strong grounds ; this is done in different parts of those observations, and in particular also in the passages quoted, which passages have exclusively reference to *that subject only*, and are not given in reference to any grant of Land, so as to connect them with such grants, but *bona fide* only as instances of such circumstances *furnishing matter for observation*, which applying to Lord Charles Somerset as Governor, I think it rightly stated to be lamented. The Land occupied by the Groote Post Establishment being the subject which immediately connects it with my office, and the information I have obtained respecting it being through my former connection with it as a Member of the Board of Agriculture ; and as subsequently having been honored with His Excellency's communications respecting the plan for conducting the establishment after the said Board had been dissolved ; consequently I have not gone out of my way to seek matter to be laid before you, as it seems to be supposed.

The circumstance much to be regretted, to which I alluded as affording *matter for observations*, is one of public notoriety, which it is impossible, Gentlemen, but must in different ways have come to your hearing, namely, His Excellency's extensive and frequent transactions in Sales, and other dealings in Horses. The general opinion that is attached to pursuits of that kind, will any one say who entertains proper feelings for the representative of His Majesty, that it is not a source of regret that He who thus represents His Majesty should be so engaged ? and is there anything irrelevant or improper, when with respect to the Groote Post, this subject being necessarily alluded to, I should have adduced instances so strikingly in point as those

quoted by me, and while without the support of such instances, the statement itself would have been incomplete; does it follow, or even, allow me to ask, is it fair, that because these circumstances have taken place with respect to persons whom I have, on occasions *totally distinct* from that on which those circumstances were adduced, been obliged to bring under your notice, is it doing me justice so to connect them, and then to infer from them that they were *intended* by me as, and actually constituted an "unreserved charge" of *corrupt motives* in the Governor, in granting an extensive tract of Land to one of those persons alluded to, as having purchased one of his Horses? I have stated the two circumstances not only entirely distinct from each other, but on very distinct occasions, neither of them are preferred as charges, in fact there is not a single charge brought forward *as such* to be found in *any* of my papers. I have done no more than to adduce the Sale of the Horse, in one instance as among the causes that provoked observations such as cannot but be known to yourselves to exist, the other as instances among many others, tho' from *their magnitude most important*, upon which I rested my suggestion for a greater check upon the making of grants, and to subject these to particular regulations, such as I have also elsewhere pointed out. Good God! if this is to be construed into an offence, such as My Lord Bathurst is pleased to define it, and that upon that ground I am to be held responsible for what is *so construed*, I believe my case will be deemed a hard one! In fact, Gentlemen, I am called upon to substantiate that which I have never asserted! nor even intended to convey! is it right that I should be called upon to substantiate *more* than what I have advanced? that I should be arraigned, as it were, and be made to answer for the *constructions others* have chosen to put on my words? And, Gentlemen, what is it that is to be so substantiated? *that which admits of no proof!* namely, the *secret motive* of an Individual, which motive, if in this case it existed, as I am said to have represented it, it must have done so in the Governor's own breast, and known only to himself, and therefore *cannot* be substantiated.

Yet, Gentlemen, what must follow my not accomplishing this *impossibility*? that it will be said "such a charge was brought forward against Lord Charles Somerset, without the

person who has done so having been able to substantiate it," consequently a triumph will be published in favor of Lord Charles, and I, the *imputed informer*, shall stand branded a *defamer* of His Majesty's Representative, and suffer all the consequences that will inevitably follow ! and that too, while I disavow, in toto, both the *fact* and the *intention*, as never having existed, nor being deduceable from what I have stated, *viewed in its true light*. Allow me, Gentlemen, to put to your feelings what mine must be under these circumstances ; and let me add, what will not be the general feeling excited by this circumstance ? must it not have the effect, however remote, undoubtedly, from your, and from My Lord Bathurst's intention that it should be so, to *intimidate* those who come under enquiry before you, *wherever the Governor is concerned*, and to alarm those who have already communicated matters of that nature to you : for if the circumstances I have stated, in the manner and for the plain and obvious purpose for which I have stated them, are liable to this construction, I do not know where I am safe in other parts of the statements I have made, in the plenitude of confidence, in the sacredness of your commission, and in the most conscientious conviction that I discharged fairly, openly, and honorably duties as sacred ! I beg leave to say, Gentlemen, if this construction stands, under the several bearings of the case, I do not know what part of my statement, where I have had occasion to animadvert on any of His Excellency's decisions in my branch of the Public Service, or circumstances connected with it, may not render me equally liable to the same imputation. I feel, Gentlemen, and feel strongly, not only my welfare, that of my family, dependent on mine, but what is still dearer, my character, public and private, my veracity, my Honor, my *all* to be at stake upon this question ! I conjure you therefore, Gentlemen, to pause ere you act upon those grounds, which I cannot for a moment doubt but My Lord Bathurst, in viewing them in the light in which I have stated them, would be the first to recall.

I lament, Gentlemen, to have taken up so much of your time on the present occasion, I will therefore not now trespass any further by observing on another point you have noticed, namely, the motive attributed to me for having brought

forward my official Papers. I shall take the liberty of addressing you on that subject in a subsequent Letter.

I have &c.

(Signed) CHAS. D'ESCURY, Inspector of Govt.
Lands and Woods.

Records of the Trial of William Edwards, Prisoner on a Charge of Composing, Writing and Publishing a Libel against His Excellency the Governor, as well in this His Capacity, as in that of Judge in Appeal.

Tuesday 4th May 1824.

Present F. R. Bresler, and P. B. Borchers Esqre., Commissioners from the Worshipful Court of Justice of this Government.

The Court having been opened with the usual Solemnities, and D. Denysen Esqre. His Majesty's Fiscal as R. O. Prosecutor, and the Prisoner William Edwards being present, the former exhibits

1. The Act of Accusation accompanied by the preparatory Informations, together with the decree by the Court against the Prisoner, said Documents being as follows :

Act of Accusation in the Criminal Prosecution of His Majesty's Fiscal Acting Ratione Officii contra William Edwards, Prisoner in the Common Gaol.

Be it hereby made known—That William Edwards an Inhabitant of this Town and at present a prisoner in the Common Gaol here pursuant to a certain Decree of the Worshipful the Court of Justice passed on the 28th April last has become liable to the Charge of having Wilfully and Mala Fide made, drawn up, and published certain Two libellous Writings, both subscribed by him with his name, the one dated the 22nd April 1824 and addressed to His Excellency Lord Charles Henry Somerset and the other dated the 26th April 1824 and addressed to the Right Honorable the

Judge in Appeal, the first mentioned of which, namely the Writing dated the 22nd April 1824, is of the following tenor :

[See the letters of the 22nd and 26th April, on pages 268 and 276.]

Which writings as tending to vilify the high Authority and Dignity of His Excellency the Governor as well in His Function as representing His Majesty the King, Our Most Gracious Sovereign, as in that of Judge of the High Court of Judicature, within this Colony, and likewise atrociously to calumniate and defame His Excellency the Governor as well personally as in both His above mentioned Functions, cannot be tolerated in a Colony where Justice prevails, but should be publicly punished in an exemplary manner to deter others from doing the like.

Fiscal's Office, 1st May 1824.

(Signed) D. DENYSSEN, Fiscal.

COLONIAL OFFICE, 28th April 1824.

SIR,—I am directed by His Excellency the Governor to transmit to you two Letters (Enclosed herewith) addressed to His Excellency by Mr. W. Edwards a Notary Public at this place under date of 22nd and 26th Instant and to request that You will adopt such measures with respect to the contents of those Letters as the Law may direct. I have &c.

(Signed) P. G. BRINK.

To D. Denyssen, Esqre., His Majesty's Fiscal.

Extract, Resolution passed by His Honor the Chief Justice Sir J. A. Truter Kt. and the Members of the Worshipful the Court of Justice of the Government.

Wednesday the 28th April 1824.

Read a representation from D. Denyssen Esquire His Majesty's Fiscal exhibiting a letter from the Colonial Office of this date, with its Two Enclosures being letters dated the 22nd and 26th Inst. written to His Excellency the Governor in the Evident Hand Writing and Signed with the Name of William

Edwards, Inhabitant of this Town, and exercising here the Profession of a Notary Public, and stating that said Two Letters to His Excellency the Governor were considered by him, the Fiscal, to be libellous, principally tending to injure and atrociously to insult His Excellency the Governor and His High Dignity and Authority, as representing His Majesty the King and as Judge in Appeal, requesting that on these grounds, and as the high rank and function of His Excellency the Governor, and the imminent danger to which the maintenance of the public Authority by all high and low Functionaries in this Colony is exposed by such a Crime demands an exemplary punishment, that the Court may be pleased to grant to him R. O. a decree of Corporal Apprehension against said William Edwards as the Author of both the said Letters, and the person who caused them to be delivered to His Excellency the Governor, with Suspension from his Office as Notary public, till such time as further disposition be made herein, said Representation being as follows

F I

Having examined the documents and deliberated thereon, resolved to grant to the R. O. memorialist, and the same is hereby granted accordingly, a Decree of Corporal Apprehension against said William Edwards, with provisional Suspension from his Office as Notary public.

An extract hereof without resumption to be granted, and the Documents exhibited returned to the R. O. Memorialist for his information and guidance.

A true extract.

(Signed) D. F. BERRANGÉ, Secretary.

2. Nominal Statement of Witnesses by the Prisoner being of the following tenor :

List of Witnesses given in by the Prisoner.

- No. 1 Lord Charles Henry Somerset,
- 2 Mr. Richard Stone,
- 3 Mr. James Payne,
- 4 Mr. Kekewich,

- 5 Mr. Wilberforce Bird,
- 6 Mr. Thomas Bowles,
- 7 Private Secretary Whitefoord,
- 8 Mr. P. G. Brink,
- 9 Mr. Twaits,
- 10 Mr. P. Auret,
- 11 Mr. Van der Riet, Sequestrator,
- 12. A Manumitted female Slave of Mr. Van der Riet, a
Concubine living with Lord Charles Henry
 Somerset,
- 13 Doctor Barry,
- 14 Mr. Roberts.

Cape Town, May 1st 1824.

(Signed) W. EDWARDS.

The Fiscal hereupon states, that he does not conceive it necessary to call any Witness or Witnesses to substantiate the charge against the Prisoner, and reserving the right, after the Prisoner shall have been examined to make such remarks respecting the List or Statement of the Prisoner's Witnesses, and Objections against the Admission thereof, as he then may conceive it to be his Duty to do.

3rd. Record held on Saturday the 1st Instant containing the Communication of the Act of Accusation, being of the following tenor :

Record held before F. R. Bresler Esqr., Commissioner from the Worshipful the Court of Justice of this Government, in the Case of His Majesty's Fiscal contra William Edwards, Prisoner in said Case, on Saturday the 1st May 1824.

Appears before the Sitting Commissioner aforesaid J. J. Lind Esqr., Deputy Fiscal, as also the Prisoner in this case, the former exhibiting an Act of Accusation against the Prisoner with a translation thereof, which act having been clearly and distinctly read to the Prisoner by the Sworn Translator J. A. Delbet and a Translation delivered to him, he is asked by the Commissioner to give under his Signature a List of the Names of such Witnesses as he wishes should be heard on his behalf in the investigation of the Crime with which he is charged in the Act of Accusation ; on which the Prisoner stated the names

of the Witnesses in the List under his Signature hereunto annexed, further requesting that the Messenger may be sent to him in an hour, to whom he will then deliver the names of some further Witnesses should he be able to recollect them.

The Sitting Commissioner hereupon informs the prisoner that his Trial will commence on Tuesday the 4th Instant at a quarter past One O'Clock.

Done at the Cape of Good Hope, Day and Year as above.

(Signed) F. R. BRESLER.

In my presence.

(Signed) J. T. JURGENS, Hd. Ck.

4th. Interrogatories for the examination of the Prisoner being of the following tenor :

1st. What is your Name, Age, Birthplace and calling ?

2. To exhibit to the Prisoner, a writing dated 22nd April 1824 and addressed to His Excellency Lord Charles Henry Somerset and signed with the name of the Prisoner William Edwards, and to ask him : Do you acknowledge to have made and drawn up this writing ?

3. Do you acknowledge the Signature of William Edwards underneath the Same to be yours and to have been written by you ?

4. To exhibit to the Prisoner a Writing dated the 26th April 1824 and addressed to the Right Honorable the Judge in Appeal and signed with the Name of the Prisoner William Edwards, and to ask him : Do you acknowledge to have made and drawn up this writing ?

5th. Do you acknowledge the Signature of William Edwards underneath the same to be yours and to have been written by you ?

6. Do you acknowledge that the two writings alluded to in Interrogatories 2, 3, 4, and 5 were delivered with your will and previous knowledge to His Excellency Lord Charles Henry Somerset to whom they are addressed, the former under the title of His Excellency Lord Charles Henry Somerset and the latter under that of the Right Honorable the Judge in Appeal ?

7. How did these Letters get out of your hands and posses-

sion, and by whom were they delivered to His Excellency Lord Charles Henry Somerset?

8. Do you acknowledge the Crime with which you are charged in the Act of Accusation which has been read to you, and therefore that you are criminal and have deserved punishment?

9. What have you to say in excuse?

Fiscal's Office, May 4th, 1824.

The prisoner says that having been confined Eight Days and thereby very weak in his legs it is extremely fatiguing to him to stand, and therefore requests to be allowed to sit down.

The Court grants the request.

The Court hereupon informed the prisoner through the interpretation of the English Assistant Secretary that the interrogatories exhibited in Court for his Examination on the Charge contained in the Act of Accusation will be put to him through the Secretary together with such further questions as the Court itself may deem proper to ask him.

The Prisoner says that previous to his examination, he has an exception to propose.

The Fiscal says that if the exception be of the nature of those laid down in the 42nd Art. of the Crown Trial, he has no objection, and that now is the proper time so to do.

The prisoner hereupon says, I will propose an exception, that this Court is not competent, which I will divide under the following heads:

1st. The illegality of my arrest.

2nd. That the necessary Documents are not filed.

3rd. The total absence of the Corpus delicti or alleged crime.

4th. The incompetency itself.

The illegality of my arrest is grounded on the 15th Art. of the Crown Trial, which states: "All Officers of Justice shall be obliged and bound on a legal decree for apprehension being exhibited unto them forthwith to cause the person or persons against whom such decree has been given, if they reside or are in the District to which such Officers belong, to be taken into custody and delivered to the Competent Officers, or his lawful representative."

The Fiscal must admit that the decree was never exhibited

to me, nor to the officers who arrested me, as they came late in the evening into my House, and on my enquiring for the Decree they declared neither to have it nor to have seen it, but shewed me a note from the Fiscal, and on my asking if it would not be better to go to the Fiscal to see the Decree, they then went away, and on their return stated that all the requisites were fulfilled. I then obeyed, notwithstanding my not having seen the Decree, and was placed in Solitary Confinement, whilst in the case of Doctor Halloran, who insulted one of the best Governors that ever has been in this Colony, altho' I am far from comparing my case with that of Dr. Halloran, he was left at large for his Defence, and I on the contrary confined in a cell, deprived of everything, even of pen and Ink; and on these grounds my first exception is to be allowed.

2nd. The necessary documents and Evidences have not been filed.

The 30th Art. of the Crown Trial states, "In all prosecutions for alleged crimes, requiring the Securing of any person or a Summons for personal appearance, the competent public Prosecutor shall in the presence of a Committee of the Court of the place where the crime has been committed take such preparatory informations as are requisite to enable the Court to give the necessary decree for apprehension or for Summons for personal appearance," and notwithstanding this article there is a total want in this.—In the 77th Art. you will find that "no investigation shall be closed until it has become evident to the Court that all Documents relative to the Case in question, the preparatory informations included, have been read to the accused person in open Court, at such period of the investigation as may be deemed most likely to afford equal and impartial Justice, and the Court is to pay no attention to Documents that have not been so read in Court."

And these Documents have never been read to me. The 31st Art. says that "all Witnesses to be examined in the course of this preliminary investigation shall, previous to their giving their Evidence, make Oath before the Court by whom they are to be examined, that in the whole of their depositions they will state truth, whole truth, and nothing but the truth." And "in giving any judicial decree or passing any definitive

Sentence no regard shall be paid to Evidence not sworn to." No such Oaths have ever been taken in the preparatory informations. The 39th Art. dictates that "On the Day of Trial, after the Court has been opened with the usual Ceremonies, and the accused whether a prisoner or person summoned to personal appearance, the Prosecutor is to exhibit the Act of Indictment subscribed by him, together with all the preparatory informations collected by him, and a specific List of all the Witnesses in favor of and against the accused to the best of his knowledge, together with the Interrogatories on which he considers the prisoner or defendant should be examined." And still there are no preparatory informations, the 49th and 50th Art. also speaks of preparatory informations, which Law has not been complied with, and on this my Second Exception is grounded.

3rd. The want of the *Corpus Delicti*.

The Act of Indictment states that I became liable to the charge &c. I deny there being any crime in these Letters, and before a charge can be made there must be a crime, the act itself says that those Letters only tend to vilify the high authority and Character of the Governor, and I don't find any harm in those Letters, the Act goes further as I understand to state that His Excellency represents the King. Well, Can I then be beaten by the Dutch Law that has been made at the time that there was no Dutch King, but only the King of England, and as these Letters contain the truth, there is no Libel in them, for no man is exempt from hearing the truth, and as I have proved there exists no *Corpus delicti* I will proceed to the Letter dated 22nd April (which Letter is inserted in the Act of Accusation together with that of the 26th April—and which Letter the Prisoner held in his hands) from paragraph to paragraph.

The Fiscal requests the Prisoner may be ordered to confine himself to his Exception without treating on the principal matter.

The Court orders the Prisoner to confine himself to his Exception and not as yet enter on the principal matter.

The prisoner proceeding, says in Substance: I intended by my argument to show that there was no crime, that the 1st Paragraph of the Letter of 22nd April is a very natural reflec-

tion and not a reflection on Lord Charles and his Daughter, and I don't see what impropriety there is in that. If your Worships understand the word Radical you will find that it is not pleasant to hear my being branded with that name at the table of His Excellency the Governor, and that in His presence, without His stopping it, so that such Language was encouraged by him.

When I say and declare my Loyalty to our Monarch and Affection to His Ministers there is no Libel in that, as Lord Charles is one of those Ministers to whom I declare my affection, and there is no libel in stating to throw the Scabbard amongst His Minions as it is not a sword but a simple leather strap which His Excellency might convert into a Belt for the use of a Horse Jockey, but when I say that I will Clip the Wings of the Bird that would croak or peck at me, I spoke the truth, for so I will that he shall ever feel it. Now I would ask if there is anything offensive in that. I would have gone on with my grievances, but waited till we meet before the Parliament where no man can arrogate to him to be above the Law, but where every man will be protected.

There is no harm in my stating that I will go further, as Lord Charles thinks himself here above the Law as it is to be found in Bird's Book page 202, which is sanctioned by the Lord and which is an Exposé of the Government (see its introduction).

There are many Cases, such as that of My Lord Kay, General Picton, Mr. Quarrie, Governor Farquhar, Sir George Provost of Canada who destroyed himself, and many other Cases in which you will see that Judges in England have been hung for giving decisions less corrupt than the One I complain of in this Letter. Look also into the Cases of the Duke of York and the late Queen where the Witnesses were not brought to trial for there was no crime in it, there was the case of King Charles who was tried and executed, the King of France, the late King of Sweden, and others, in which the persons who brought these great people to trial were never prosecuted, and there is another instance of that of King David, when reproved by Nathan the Prophet for seducing Bathsheba when in that beautiful allegory of the Lamb he said "thou art the man." There is no libel in that paragraph respecting the Private

Secretary, if he will be heard, he will say that such Letter was written by him.

A Man has a right to form resolutions, but I would not state the meaning as Lord Charles knows the meaning himself by keeping company with such gentlemen as Mr. Kekewich, Van der Riet, &c.

The prisoner continuing in a violent manner to make use of further remarks against His Excellency the Governor, he is warned by the Court to confine himself to the Exception he has to treat on, and to refrain from any personal reflections which could probably aggravate his Case.

The prisoner further says, in Substance, Respecting the paragraph beginning with "however I have altered this Resolution":

The 10th Art. and 103 Art. of the Crown Trial states that all prosecution of Crimes shall be carried on by His Majesty's Fiscal, or by One of his Deputies, and if nobody is above the law, why is that Law construed either by Lord Charles or the Court of Justice as they please, as the Clerk of the Fiscal attended as Prosecutor instead of the Fiscal or one of his Deputies, and as everybody is bound to the Law, without infringing on it, that was therefore construing the Law as they pleased, and so we are not protected by the Law. There is another instance by which Lord Charles made a Law one Day and permitted it to be trespassed the day following. I am speaking of the Proclamation of the 22nd September, whereby is prohibited that no man shall practice as a Doctor or Surgeon and keeping at the same time an Apothecary's shop, so that no man shall keep these professions, and notwithstanding that Law, Dr. Roberts has been permitted to keep and exercise these two professions; by the said Law it is also fixed that for a visit of a medical man not less shall be paid than 1 Rdr., whilst Dr. Barry contrary to that law has allowed less than what is fixed, so there is no Libel in that.

There is nothing in saying lost and using the word wandering, as I myself have been wandering nearly round the Globe, and I know a man who almost daily wanders towards the top of Strand Street to visit his Dusky Desdemona, therefore that is no libel.

Respecting the paragraph of his Regulations of Bakers, Butchers, &c.

The Prisoner having launched out into personal remarks against His Excellency the Governor and Mr. W. Bird, he is again warned by the Court to confine himself to his exception, or that he will otherwise by such personal reflections aggravate the crime with which he is charged.

The prisoner hereupon continues to the following effect : As it is my disposition to obey the Law I will let the Bird fly until we meet upon more equal terms.

I don't see any harm in the following paragraph, as a Judge never will feel any harm in an appeal from his Decision, for every man is liable to error, there can be therefore no harm in going to England for a revision of a Decree as is found in the Bird's Book about Appeal to King in Council, and as I abhor favor I don't want anything but Justice and what can there be more respectful than what I further said in that Letter.

I recollect in Bird's Book when he speaks of Lord Caledon that he made a mistake, and with regard to saying that I will wage war with an instrument whose point is dipped in Gall, by this Instrument is meant my pen dipt in Ink to attack Bird's Book, as no one escapes their share in it.

Now I will proceed to the next Letter. Was there anything malicious in stating the Contents of that Letter to Lord Charles ? I don't find anything in it, as the decision in that Cause was oppressive to Mr. Stone, and the Letters only tended to have it redressed, and what expression can there be more proper than those made use of in that Letter, and notwithstanding, I was confined in a Solitary cell, but, when Mr. Stone will be heard, he will repeat those expressions and the Case will be explained by the Evidence.

A Man of my Profession is allowed to do what is stated in that Letter, and by offering to prove what is stated in that, it cannot be called a Libel, as I don't find any harm in it.

Suppose the Government at home wants a Governor for one of the Colonies, a Younger Son of a Noble Family is appointed. This Son we will suppose is a Gambler, a Horse Jockey and a Cock Fighter, a Black Leg who has been driven from Newmarket.

This Governor who has a Son just as great a Rogue as his

Father, sends him with a command to a far distant District. We will further suppose that commissioners are sent out from the Government at Home to inquire into the Abuses of this Colony, these Commissioners arrive in this distant district, the Inhabitants overjoyed at the prospect of their grievances being redressed unanimously Illuminate.

The Fiscal requests the prisoner may be stopped in that which does not belong to his defence, as he now plainly alludes to circumstances that have taken place and which can have no other tendency than to create disaffection towards Government, on which the Prisoner is again most seriously warned by the Court and ordered to confine himself to his exception, for that such expressions may probably aggravate his Case and may be taken into consideration in the final decision.

The Prisoner hereupon proceeds as follows : I don't wish to speak of anything that has happened, I have a right to speak of Circumstances on my defence. Now we will suppose that the Father and Son forget themselves so far that a poor Notary as I am is called upon and obliged to write a Letter to them for redress of all they have committed, is there any harm in this ? Yet the poor Notary for his stating the truth is ordered to prison without a *corpus delicti*, what shall we say about that ?

4th. The incompetency itself.

According to what I have stated before, I must be tried by an English law and I would have shewn by some Law, had I had the liberty of access to my Books that I should be tried in Middlesex.

The English Law not existing in this Colony, the Court cannot take cognizance of this Case, as there cannot be any Crime, where no Cognizance can be taken of it, and I cannot be tried by any Analogy of the Law. I therefore submit the incompetency of the Court and request to be discharged.

The Fiscal in answer says :

After hearing the so-called defence which is nothing else than an aggravation of the Crime, I shall pass it by, as relating to the principal matter.

The Exception proposed is that of incompetency, which the prisoner has divided into four parts, namely

1st. The illegality of his arrest.

2nd. That no Evidence has been exhibited.

3rd. The Absence of the Corpus Delicti.

4th. The incompetency itself.

Supposing now that the prisoner had been illegally arrested, this cannot make the Court incompetent. The 15th Art. of the Crown Trial says the Decree must be exhibited to the Fiscal without which he may not arrest the prisoner, and I should have taken good care not to apprehend the Prisoner without a Decree having been previously Exhibited to me. It was never Customary either here or in the mother country to exhibit the Decree to the inferior Officers of Justice or to the prisoner, but only to the public Prosecutor who is responsible for its execution. I acted to the Letter, and the prisoner shall also see the decree according to the tenor of which I proceeded after I had received it.

The second head regards the not taking of preparatory Informations.

The Decree was granted on the Letters which were exhibited to the Court with the Conductory Letter from the Colonial Office, and where is the Law by which I am ordered to produce Witnesses if the proofs I possess be sufficient, as is generally the Case.

With respect to the third part, I have never either heard or been taught that the non existence of a Corpus Delicti can lead to the proposing of an exception, which is only applicable in the principal matter. I shall also refrain from saying anything on all that has been advanced about there not being any Corpus delicti and will reserve until I come to make my claim, to prove the Crime, and likewise that the prisoner is the criminal.

In the fourth part the prisoner maintains that he must be tried by an English Court, but the Contrary of this position I have already proved to him on a former occasion, as every Man must be tried according to the Law of the Land in which he resides.

The prisoner complains that he has had neither Book, Paper, Pen or Ink. Crimes committed in a Colony must be tried there, and the Law about Middlesex speaks of crimes not committed beyond sea, I therefore conclude for the rejection of the exception with the Costs.

The Court having heard what has been advanced by the Parties on the Exception and having taken everything into Consideration which deserved attention or could move the Court, administering Justice in the name and on behalf of His Britannic Majesty, rejects the Exception, cum expensis.

The Court hereupon proceeding to the examination of the Prisoner, the Interrogatories exhibited by the R.O. Prosecutor are put to him, to which he answers as follows :

1. What is your name, age, birthplace, and calling ?

William Edwards, Forty-one years of age, born in North Wales, a Notary by profession.

2. A writing dated the 22nd April 1824 and addressed to His Excellency Lord Charles Henry Somerset and signed with the name of the prisoner William Edwards being exhibited to him, he is asked : Do you acknowledge to have made and drawn up this writing ?

No.

3. Do you acknowledge the signature of William Edwards underneath the same to be yours and to have been written by you ?

No.

4. A writing dated the 26th April 1824 and addressed to the Right Honorable the Judge in Appeal, and signed with the name of the prisoner William Edwards being exhibited to him, he is asked : Do you acknowledge to have made and drawn up this writing ?

No.

5. Do you acknowledge the signature of William Edwards underneath the same to be yours and to have been written by you ?

No.

6. Do you acknowledge that the two Writings alluded to in Interrogatories 2, 3, 4 and 5, were delivered with your will and previous knowledge to His Excellency Lord Charles Henry Somerset to whom they are addressed, the former under the Title of His Excellency Lord Charles Henry Somerset and the latter under that of the Right Honorable the Judge in Appeal ?

I don't know how they came into the Hands of His Excellency.

6½. Were these letters never in your possession ?

Never.

The 7th Interrogatory superseded.

8. Do you acknowledge the Crime with which you are charged in the Act of Accusation which has been read to you, and therefore that you are criminal and have deserved punishment ?

No, Certainly not.

The 9th Interrogatory superseded.

The above Interrogatories and answers being read over to the prisoner, he persists therein.

The Court adjourns in consequence of the lateness of the Hour till to-morrow Morning 10 O'Clock.

Done at the Cape of Good Hope, Day and year as above.

(Signed) F. R. BRESLER,
 P. B. BORCHERDS.

In my presence,

J. T. JURGENS, Head Clerk.

Wednesday the 5th May 1824.

Continuation of the Trial of William Edwards which was adjourned yesterday.

Present : F. R. Bresler Esqre. and P. B. Borchers Esqr., Commissioners from the Worshipful Court of Justice of this Government.

His Majesty's Fiscal as R.O. Prosecutor and the Prisoner William Edwards being present, the former objects to the hearing of the witnesses called by the prisoner on the following grounds :

It would now be my task to call my witnesses, in case I had any to be examined, but as the Case in question appears to me to be of that nature that it needs no further proof than what is to be found in the preparatory informations, I conceived I ought not to cause any unnecessary delay in the proceedings, altho' I need not be solicitous, after the barefaced confession which is to be found in the prisoner's defence of his Exception about the proof, that he is the Author of the Two Letters here in question, I shall nevertheless in order to enable the Court

to judge how contrary to Truth he denies the writings which he wrote himself and signed with his own name, refer to some of his own Letters, which have from time to time come under my own eye and compare them especially with his Signature. I now request that the Decree for the Corporal Apprehension of the Prisoner and the Letter from the Assistant Colonial Secretary whereby the Two Letters of the 22nd and 26th April last which form the subject of the present prosecution, were placed in my hands, may be read to the Prisoner.

Said Decree and Letters having been read accordingly, the Fiscal further says :

Herewith I hold the whole investigation completed, for the Two Letters in question have already been read at the Commencement of the Trial. The prisoner calls witnesses in his Defence, but however strange it may appear that I should impede the Prisoner in defending himself, I am nevertheless obliged to oppose the examination of the witnesses whose names he has placed on his list.

It is not now, Your Worships, the same as in the prosecution carried on by me against Cooke and Edwards, when the multiplicity of the witnesses on the List induced me to suppose that there existed a wilful and premeditated intention to vex, and therefore obliged me to oppose on the authority of the Roman Law and modern practice, the hearing of such a multitude of witnesses, unless the Court were previously convinced, by the then accused persons stating to what end they wished each of those witnesses should be examined, that the suspected plan to vex did not exist. But it is the palpable existence of a much more mischievous object than merely to vex, that compels me to oppose the prisoner's list of witnesses as it there stands and respectfully to insist from the Court that it may be rejected as bearing the most contemptible Marks of Calumny and Malice of the Prisoner, and that the Investigation may be declared closed. Let us but look at the names on this list, are they not with the exception of Two only the very names of those persons whom he has included in his Slander against His Excellency the Governor, are they not the minions and dependants of His Excellency, among whom he says he will throw the Scabbard, while he contends with His Excellency with the naked Sword? Are not these

the persons whom he has called as witnesses ? Are not two of them, namely Mr. Kekewich and Mr. Bird, branded in the Letter of the 22nd April last as the interested Assessors of His Excellency ? the latter mentioned as his very opponent. Does he not threaten the latter, whom he figuratively calls His Excellency's *flying adviser, to clip his wings*, are they not compared together with Mr. Van der Riet of George, Mr. Blair, Mr. Rivers and myself as the acquaintances of His Excellency with a Convict in prison ? Is not Mr. Rowles the Secretary of the Right Honorable the Court of Appeals against which he is so incensed ? Is not Mr. Private Secretary Whitefoord the person whom he accuses of having threatened to punish him as a Calumniator, and what will not be the feelings of the Court at reading the name of P. Auret, the Chief Clerk in the Fiscal's Office, among those of the witnesses ? Are not he and his innocent family the objects of the prisoner's foolhardy and wanton ridicule ? Has he not in his letter of the 22nd April last abased and stained them and their parents, long since in their grave, in the most scandalous manner ? I have not yet spoken of His Excellency the Governor whose name is placed at the head of the List, because that the Slander contained in the Prisoner's Two Letters chiefly alludes to His Excellency.

On reading the names of all these witnesses the question must naturally arise as well with the Court as with myself, For what purpose are these Witnesses called ? Can it be for any other purpose than to interrogate them respecting the Evil which he has written of them ? This is at all events the Subject of his Two Letters, and to this the Prisoner must confine himself in the hearing of his evidence. To allow him to examine such Witnesses in his Case would be to afford him an opportunity of publicly exposing his so-called Witnesses, and at the Head of them His Excellency the Governor, in the Name of His Majesty, of this Colony in the most scandalous manner and of making them the objects of the ridicule and derision of the Prisoner and his party who are most probably here in order to amuse themselves by being present at such a shameful act. This would be the most ready means at once to destroy all feelings of respect and reverence for the existing Government, to Stir up the Inhabitants against Government, and to induce them to follow the prisoner's example, who says he has

thrown the Scabbard amongst the Dependants of the Governor and will go to encounter His Excellency with the naked Sword.

Is this the object for which the Prisoner wants to abuse the public administration of Justice in this Colony? And who can doubt it? Then it is time Your Worships that we stop him in his purpose before that Government be deprived of all its power and energy, and under the Cloak of Liberty to speak and to write, all confidence in, and Goodwill towards Government destroyed, all the bonds of unanimity torn asunder and disaffection and Confusion established in the place of Good Order and Tranquillity. The List of the Witnesses given in by the Prisoner bears another mark of his object to expose the Governor of this Colony in the most scandalous manner. I need scarcely point it out to the Court, for it is too palpable. I mean the description given by the Prisoner of one of the witnesses, whom he has not named. Is not this the clearest and most evident proof of the wanton and humiliating purpose of the prisoner, and does it not indisputably shew that even the List of his Witnesses has been made out by him *Animi injuriandi*? Here your Worships is a sufficient reason in itself to reject the whole of the list. Surely the public administration of Justice must be the means to restrain and not to encourage offenders. Supposing however that these reasons may not be considered as sufficient to reject the whole of the witnesses, even then there is another reason in Law and grounded on the opinion lately publicly declared by the Colonial Court, why the witnesses called by the Prisoner should be rejected. It is evident that it is not his intention to prove by their Evidence that he is not the Author of the two writings in question or that they were not sent by him to His Excellency the Governor. Did he want by proving either of these two points to make his innocence appear, then I should be obliged to afford him an opportunity so to do; but as he plainly wishes to confine himself to the subject of his Two Letters, I must remark that he cannot excuse himself by asserting the truth of what he has said. The only question here is, Are the Two Letters Libellous? the answer to this question does not depend in this Case on the Enquiry into the truth or untruth of what the prisoner has written therein against His

Excellency the Governor, but on the mode in which he has composed them and the person to whom he addressed them. When the principal question comes to be treated I shall prove that my charge is grounded.

It is at present sufficient to have made the remark in order to shew that the decision which was given in the former case of the prisoner, respecting the calling of witnesses, regarding the subject of the questionable writing is in this case likewise applicable. I dispute to the prisoner the right even to bring the truth to light, in the manner he has done. Far be it from me your Worships to allow the truth of the prisoner's grossly Slandrous language, but I speak here only on the acknowledged principles of Law on which I conceive the Court's decision must rest in the admission or rejection of Evidence relative to the matter of the prisoner's two Letters. To develop these principles more fully is unnecessary, as I can confidently refer the Court to what is amply laid down in Holt's Law of Libel, Book 1, Chap. 3, page 38, and the following, and in Book 3, Chap. 4, page 274 and the following, and to what I have said above on the highly offensive and seditious tendency which especially in the present case must be the consequence of the discussion of the subject of the Two Letters in question. I therefore conclude for the rejection of the List of witnesses delivered in by the prisoner and that the investigation of this case may be declared closed.

The prisoner in answer says to the following effect : By the 49th Art. of the Crown Trial you will perceive that " If the accused denies having perpetrated the Crime, or part thereof, or if he acknowledges the perpetration of the Fact but denies its criminality, the re-examination of the witnesses whose evidences are contained in the preparatory examination, and the examination of those whose evidence has been called on by the public Prosecutor and the accused, shall be proceeded to immediately after the accused has been interrogated." Now in that Art. it is ordered that Witnesses shall be heard as I deny having forwarded these Two Letters to the Governor, as you will find in the Records.

Any man who is accused of having committed a breach of the Law ought to endeavour to clear himself and need not to be ashamed of it, but the more shame it is for Lord Charles,

as shall be proved by calling the Witnesses. When I was here six years ago and on more important business, I then had already marked this Colony for my prey. I have before denied the Handwriting underneath these Two Letters and to prove this compare the same with my handwriting to be found under the List of my Witnesses, which List I beg to see.

The Court directs the Secretary to read the List of Witnesses to the Prisoner, and of No. 12 to read only a *Manumitted female Slave* of Mr. Van der Riet.

The Prisoner further says in substance, I only wanted to see the List which I signed in order to compare the same with the Letters produced by the Fiscal, as I deny having written them, they can have been written by the same person who sent the Letters to the Fiscal produced this morning. By giving in the witness in the case of Cooke and me, it was not to blame any character but to prove facts.

The witness on my List No. 12 is a manumitted female Slave of Mr. Van der Riet the Concubine of Lord Charles Somerset, now living with him whose name I was not able to ascertain, and I would have proved how many prize Negroes were given for her manumission.

I don't see that Mr. Rowles was calumniated as I have no animosity against him. Mr. Whitefoord wrote an insolent Letter to me, according to the instructions given to him, so that I have no animosity against him. I have no animosity against Mr. P. G. Brink who only writes by His Excellency's Commands, nor against Mr. Van der Riet the Sequestrator or Dr. Roberts and to whom nothing insulting has been said, so you will perceive that the Fiscal has made a mistake, and he who makes one mistake may make many others.

I have never said a word of a naked Sword, but used the word Scabbard, I never called Mr. Kekewich and Van der Riet the minions of His Excellency, but the Fiscal now tells me who they are, so that the cap was well made for it seems to fit.

I never said that I would clip the wings of Mr. Wilberforce Bird, but I said I would clip the wings of any Bird who would croak or peck at me, and so I will. His Majesty's Fiscal calls the flying adviser, Mr. Bird, I must say a very bad adviser.

It was never my intention to compare a learned man with a

Convict as the Fiscal says. I admit the Letter was severe against Mr. Auret, but there was no great harm in saying an unwashed artificer, because he is a son of a Cooper. It is far from my disposition to calumniate a man in his grave. I do not know that I have more than one friend in this Colony, the friend of my youth and my schoolfellow, who holds a high Situation, but dare not avow it, as he is afraid to be known as my friend.

Such is the present system of Government in this Colony, that a man dare not notice his schoolfellow in the face of open day, it is time that the Fiscal is anxious to do justice as he says.

The Fiscal says that by hearing the witnesses my wish is to expose the Governor, he dare not come here, as he is afraid to answer the questions I had put to him, and he will never tell you what is known about the Cape Corps, and he will never tell you that he broke the heart of Major Fraser.

The Fiscal requests the prisoner may be stopped in his improper observations, as such can have no other tendency than to stir up the minds of the disaffected against Government, and that as long as the reins of Government are in the hands of His Excellency, it is but the duty of everyone to protect him.

The Court orders the Prisoner not to make use of any further improper expressions, and to confine himself within the bounds of Decency in his Defence.

The Prisoner hereupon proceeds as follows: I was not arguing in my defence, I bear no malice against any man, and I was only answering what the Fiscal stated. I declare before God, I have no malice against the Governor, as I only wish to show that my witnesses ought to be heard, and I have said nothing to-day that I do not wish should be sent to Lord Bathurst.

The Fiscal says the reason for not examining my witnesses is also admitted by the Court of Appeal in a former instance.

In Appeal the Governor is the Judge who has not been brought up as a Lawyer but as a Red Coat, and may therefore be a good Soldier but not a good Lawyer, for no one can jump into a good Lawyer in a short time, therefore he cannot be a good Lawyer. I have endeavoured by 15 years study to

become acquainted with Law, and notwithstanding my application I am far from calling myself a good Lawyer. By the evidence of Lord Charles I wished to prove who gave him these Letters and I am sure Lord Charles will be glad to know that I did not write them, and so would everyone else who is therein mentioned, and as it is not proved, that these Letters were published it is not a Libel, as a Libel cannot exist without being published. I give my honor I do not know who gave them to Lord Charles. Suppose I wrote those Letters, and they were stolen from me, am I then guilty of a Libel ?

The Fiscal quotes Holt, but there is a great difference between a truth spoken in malice or a truth written privately.

I am not on my defence or I would have told and shewn you the reason I have been prosecuted and which I will do, if the opportunity be afforded me, and therefore I will not detain you longer, and submit this case as the Law requires.

The Court having heard the parties and taken everything into consideration which deserves attention or could move the Court, rejects the List of Witnesses given in by the prisoner and declares the Investigation closed, with orders to the Prosecutor to proceed to his Claim and make such conclusion as he may deem meet, according to the nature of the case and the Laws of the Land.

The Court postpones the further proceedings in this case till Friday next.

Done at the Cape of Good Hope, Day and year as above.

(Signed) F. R. BRESLER,
P. B. BORCHERDS.

In my presence,
(Signed) J. T. JURGENS, Head Clerk.

Continuation of the Trial of William Edwards, Prisoner.

Friday 7th May 1824.

The Commissioners having taken their Places, the conduct hitherto pursued by the prisoner on his Trial is first made a subject of deliberation and the Court being apprehensive that the prisoner may in his defence again express himself in the

same indecent and slanderous manner as before, resolve to pass the following resolution as a serious warning to the prisoner, to be publicly read in the English and Dutch Languages by the Secretary.

The Court previous to hearing the defence having taken into consideration that the Prisoner in the course of the Investigation of this case instead of confining himself to a becoming Justification or extenuation of the Crime with which he stands charged, has on the contrary, transgressed all bounds of good order and decency and entirely losing sight of the respect due to a Court, has found good, premeditatedly to aggravate with new slander that with which he stands already accused, a line of conduct which can have no other tendency than to create aversion and contempt towards the existing Government of this Colony and disturb the peace and tranquillity of its good Inhabitants, the Court therefore feels itself imperatively called upon, to bind the Prisoner in making his defence to this special restriction that he shall carefully refrain from any expressions which can have the smallest tendency further to insult any of the public authorities whatsoever on pain of being stopped in his further defence and definitive judgment given on the proceedings already had in this case ; Saving however the duty of the Court to pay such regard to the Scandalous Language already made use of by the Prisoner in the course of this Trial as the honor and respect due to the Administration of Justice under His Majesty's Government shall be found to demand.

The above resolution being passed and His Majesty's Fiscal and the Prisoner having appeared in Court, the latter is informed through the interpretation of the English Assistant Secretary that he is at liberty to make choice of one of the admitted advocates to assist him in his defence, which the Prisoner thanking the Court declines, on the grounds that his Trial is now so far advanced that the employing of an Advocate who perhaps would not properly understand the case might tend to its being placed in a wrong point of view.

The Fiscal being thereupon admitted to make his claim says as follows :

Worshipful Gentlemen,

The acknowledgement which the Prisoner publicly made in

Court on Wednesday last, that he retracted the slanderous accusations made against me on the occasion of the former prosecution which I carried on against him, obliges me on my part to declare, that altho' they caused me a moment's pain they have not by any means incensed me against him, and that should he in the course of this proceeding hear severe language from my mouth he must not attribute it to any personal feelings of enmity towards him, but that it is a sense of my duty which guides my tongue, for I conceive it to be a sacred duty imposed on me to warn the public and if possible to secure them against the poisonous influence of the inflammatory writings and expressions of the Prisoner.

Hitherto it has been the boast of all the Colonists that they have unanimously gone hand in hand by a due obedience to Government, and a proper respect for the Laws and for their Rulers, to render themselves worthy of the protection they enjoy from the Mother Country. Has a Governor ever left this Colony, without carrying this conviction in his Bosom? or who has not borne testimony to his Government of this praiseworthy unanimity of the Colonists, and shall then a stranger who till a few months since has lived far from our shores poison the minds of the well-thinking Colonists by stirring them up against the Government, and the existing Order of things, especially against Him who is at the Head and who is charged with the execution of the Laws of the Sovereignty? Will he, when they, led away by his example, have plunged themselves in ruin, save them? Will he whose sole plan has appeared to me to be to overturn the present order of things, who has at least made preparations to substitute a new one in its place, to hold up the Governor to public hate and aversion, to make the Laws of the Land the object of disrespect and violation, and to make the public confidence in the Officers of Government appear as a tissue of partiality and oppression, will he, I say, in the confusion that must necessarily ensue from his plan, if realised, which God forbid, disentangle the heads which he has decoyed into the snare? Against the evils of such a state of things, which must arise if the public find a miserable satisfaction in the seditious plan of the prisoner, I feel it my most sacred Duty to warn the good public of this Country. Can it be? then I wish as a well affected Colonist,

that the example which the Court by the punishment of such wretches will give to the public, may deter all those who may be deaf and unfeeling to my warning from the commission of such extravagant acts and make them perceive the danger of committing their own weak Boats on the stormy sea where the prisoner now finds himself ready to be engulfed in its billows.

I have no inclination to repeat all that the prisoner has said in his two Letters which are the subject of the present criminal prosecution. Every one who only looks at them with a superficial eye will feel with me that they have a tendency to incite the inhabitants of the Colony, to whom they will become generally known by the publication which must unavoidably be given to their contents in the course of this proceeding, against the public administration here, and if possible to sow the seeds of Sedition, namely by now directing the attacks which have hitherto been made against the lesser magistrates, against the Governor himself, in such a manner as a supposed sense of oppression must create in the minds of those who are weak and credulous enough to lend an ear to the prisoner, and thus call forth a desire for deliverance from the oppression which that feeling must awaken.

I shall begin with the Letter of the 22nd April 1824. The prisoner who in a former Letter, written not many weeks ago, says to be more willing to sacrifice the hand that would assail His Excellency's honor than to pluck one feather from his plume has soon made himself the object of the threatened punishment, yes, even if he has written the truth his own hand must be the sacrifice his loyalty was willing to make in defence of His Excellency's honor, for with that hand was the infamous Letter of the 22nd April last written and signed, this Letter which begins with (to what end I cannot possibly see) an allusion to the unfeelingness and cruelty of a parent by which a dishonored daughter had been driven to desperation, who perhaps was virtuous and amiable, but whose offending had arisen more from warmth of affection than absence of chastity, immediately continues with this remark, that Calumny has often converted Man to Crime, and after this observation he falls directly into such abuse of His Excellency the Governor that one cannot be astonished at anything more than at the

existence of such audacity as that which the prisoner has been guilty of.

Since the year 1652 this Colony has been ruled by different Governors, but it is in vain that we look into the retroacts of the Government for a single example of any Individual who has dared to use such language to a Governor as that to be found in this Letter and the one which followed it on the 26th April. No, it will be said in former times the Governor had the right to send such disturbers of the public peace out of the Colony. The same right, Your Worships, is given to the British Governors by their Instructions, and that His Excellency has not availed himself of this right in the prisoner's case is a proof of his moderation and a desire not to impede the ordinary course of law except there be an absolute necessity for so doing, which has always been the characteristic of His Excellency as well as of his Predecessors, but there might be a circumstance which could render the use of this power by the Governor indispensable. I shall say but little on the calumnies used by the prisoner against the other persons besides the Governor, they tend to the aggravation of the *animus injuriandi*. The crime of the Prisoner concentrates itself against the head of the Colonial Government whom he says he will attack as an open Enemy and against whom he has really conducted himself in such a manner as if it were allowable for him under this Government to commit acts of open hostility against the head of it. In the Letter of the 22nd April the prisoner accuses the Governor of partiality, injustice, incongruity, inconsistency, and arbitrary conduct in his administration, and he would now wish to have an opportunity by the examination of those whom he calls the minions, the dependants of the Governor, to make the whole public the witnesses of his continued and uninterrupted derision, to lead away the weak and the credulous, and to harden the wicked in their evil; but this has been wisely refused him by Your Worships.

His second Letter, what else is this than a secret accusation against the Governor of wilful and premeditated partiality and injustice in his Excellency's sacred function as Judge in Appeal. This second Letter also contains an open threat in case the Governor within twenty-four hours indemnify one

Richard Stone for a pretended injustice he is said to have suffered. What must Your Worships think of such threats from an Individual of the Colony towards the Head of the Government while holding the reins of the Public Administration? Is it necessary to say, that this is not the manner in which the party cast is to address his judge, but that if he conceives himself to be aggrieved by a sentence he may seek for redress in a higher Court, if such a Court exists, and altho' he may respectfully acquaint the Judge who has decided against him of his intention to appeal, he may by no means attack him with threats.

I shall endeavour ordinarily to prove 1st that the Dutch Law is the Rule by which the Court must judge of this case although the decision of the English Courts in this respect corresponds very nearly with it.

2nd. That, considered according to the Dutch Law the injury is not liable to any doubt, because, (a) there exists a *Corpus delicti*, and (b) the crime has been consummated by the prisoner; and

3rd. That the atrocity of the injury demands a very severe punishment.

Ad Primum. That the Dutch Law is the Rule for the Court's decision in this case.

I do not maintain this, Your Worships, because that if the case were to be tried here according to English Law, this Court would then be incompetent to sit in judgment on it; this question has already been solved by me in my answer on the Exception of incompetency.

The Competency of this Court whether the case be tried according to Dutch or according to English Law still remains in both cases, but only should there be any doubt that the principles of the English Law and of the Dutch Law do not correspond, then the latter must have the preference. I by no means agree with the advocate who in the former prosecution which I carried on against the prisoner maintained that the two Laws correspond so well together with respect to libellous writings that it was all the same whether one had recourse to the one or to the other, and altho' I readily believe that both the Laws in this regard have been deduced in common from the Roman Law and that they have a very close affinity, it

has however fared therewith as with the English Language, which although in many respects derived from the same old Languages as the Dutch had its origin from, is still however in a great measure unintelligible to a Dutchman. The principles of general law are besides applicable in particular cases which can be safely deduced from both the Laws, because the principles of both are the same, and therefore I shall not hesitate to appeal in this case to the English Laws although in other respects where I have found any essential difference between these Two Laws I shall set the English aside and follow the Dutch Law. Thus I have declared in this Case that I do not require any witness, not even His Excellency the Governor, because that the proofs are in the Documents themselves, although I find it laid down in the English Law that it is an invariable Rule not to grant an information for a libel, without an exculpatory affidavit, Holt's L of L Book 3, Ch. 2, Page 257, for I am certain that this requisite of the English Law has never been observed either in Holland or in this Colony. But at the same time I am of opinion, that according to both the English and Dutch Laws it is not at all in point in the criminal Investigations of the Crime with which the prisoner is charged, to ask whether he has written truth or falsehood, but whether his two Letters are libellous as I have described them to be in my act of Accusation.

This principle we find specially admitted in the Dutch Law in De Groot's introduction, Book 3, Part 36 § 2 and by Voet in his Commentaries ad tit D. de Injuriis § 9 beginning with the words, *Quod se verum esse constet quod objectum set nec sic quidem objicient ab abjuria semper excusatus est* and ending with the words *inimico de ferentis animo profecisci*, and in the English Law by Holt and others, such as in the work of Holt already quoted Book 1 Chap. 3, Page 40, and in Book 3, Chap. 4, Page 275. It scarcely needs an answer that the Crime with which I have accused the prisoner could not exist according to the Dutch Law in observance here, because that therein could not consist a libel against the representative of the King for that the former Government was a Republic.

It is then His Majesty the King *qua talis* a moral person, in whom all the rights of the Sovereignty which are divided among a greater number of persons in a Republican Govern-

ment are united, and can it enter into the brain of any thinking being, whether it be the Governor here who represents the monarchical government of his nation or whether it be the Governor of any other Colony who represents the heads of the Republican Government in his Country that their Functions in both cases are not the same, or that the wounding of their high dignity and the authority with which they are vested do not in both cases deserve the same punishment. The Dutch Law also acknowledges under a Republican Government the crime of wounded Majesty, which is to be seen in the example of one Slatious and others who were punished in the year 1623, vid. Matthieus de crim, ad. Lib. 48, tit. 2, cap. 1 § 3 and Cap. 5, § 1, and the following, and when I properly consider the tumultuous conduct of the Prisoner before this Worshipful Court on the 4th and 5th Instants I feel myself almost obliged to accuse him before Your Worships of that crime. Ad Secundum. My second point of demonstration is, that considered according to the Dutch Law, the injury is not liable to any doubt, because

(a) There exists a Corpus Delicti.

(b) The Crime has been consummated by the prisoner.

(a) According to the doctrine laid down by Hugo de Groot in the place above quoted, Slandering is the crime of those who either verbally or in writing in the absence or in the presence secretly or publicly state anything by which a man's honor is wounded, even were such the truth, "excepting such statement be made to the magistrate, for the purpose of punishing guilt. Touch on this the Two Letters the contents of which are the subject of this prosecution. Both of them are public statements (and the writer has not even hesitated to subscribe his name to them) by which the Honor and dignity of the representative of our Sovereign in this Colony is wounded and by which His Excellency is insulted and vilified in the most scandalous manner.

Perhaps it will be expected from me that I shall employ myself in proving the *animus injuriandi*, but does not this appear from the Letters themselves? Must not in this, the same as in many other Criminal Cases, the will be deduced from the deed? This the Roman Law from which the Dutch Law in this respect is derived teaches us, and wherein the

proof that no *animus injuriandi* existed is laid on the shoulders of the accused, *Si non bonvicii Consilio te aliquid injuriosum dixisse probare potes fides veri a calumnia te defendit.*

The very same is taught us by the English Law, in Holt Book 2, Chap. 12, page 187, where he quotes the words made use of by Lord Ellenborough on the occasion of His Lordship giving judgment respecting the author of a certain Libellous writing as follows :—

“ The necessary tendency of the Libel was in the Language of the indictment, to traduce and defame the prosecutor, and to prejudice him in the minds of his countrymen and to cause it to be believed that he was guilty of the offence laid to his charge and to deprive him of the benefit of an impartial Trial. If so, the Law infers that such was the intention of the Defendants in publishing it, and they must answer for the injury they have thus done to the Prosecutor individually and to the community of which he is a member.”

That the proof of there not having been any intention to offend on the part of the writer of the two Letters in question is not to be found in the pretended truth of the Slander appears from the definition of De Groot, who says that the truth of the statement can only acquit the author of criminality, when the information be given to the magistrate for the purpose of punishing guilt.

To whom now are these two offensive Letters addressed, to whom has the prisoner expressed the Slander with which they are crammed ? Is it not to the Governor himself, who although a magistrate and the highest Magistrate in this Colony cannot however be either a magistrate or a judge in his own Case, and to whom the Two Letters are neither addressed as a magistrate nor for the purpose of punishing the crime of Slander with which His Excellency is loaded in both these Letters, but as to a private person, as to a judge no longer in office. See only the Superscription of the Letters themselves. That now the Prisoner must be held for the author of these Two Libels has appeared to me so clearly both from their contents and from the handwriting and well known Signature of the Prisoner, that I have not deemed it necessary to investigate the point by calling witnesses, neither should I have been at all surprised, had I done so, that such an investigation

would have been fruitless, because if he has shewn or read these Letters to any of his friends previously to having sent them to His Excellency, these friends who by their Silence become accomplices, would have taken good care not to have told me of it. The Contents of these Letters, Your Worships, have convinced me that no other person than the prisoner can be the author of them. Who is there in the whole Colony, if he wanted *mala fide* to borrow the prisoner's name, who possesses wantonness and malice enough to write in such a slanderous manner excepting the prisoner who has given more than one proof to this Court of his pernicious propensity hereto? By comparing the one with the other Your Worships will be enabled to convince yourselves of this truth, for as one knows a bird by his feathers so do we discover the author by his writings. But besides the contents themselves of these Letters prove in the clearest manner that the prisoner and no other person can be the author of them. He is surely the same person who was criminally prosecuted before the Sitting Commissioners for a molest at the House of W. F. Venables, who was condemned to pay a Fine for that transgression, who complained to the Court of that prosecution having been conducted by the Chief Clerk in the Fiscal's Office, whose memorial of the complaint in consequence of informality having been returned to him without reply was sent by him to His Excellency but to which he received no answer. Can all these circumstances, partly known to himself only, be mentioned and related in the Letter of the 22nd April last, were he not the author himself? Let the prisoner himself answer the question.

The Letter of the 26th April last which involves the accusation that His Excellency the Governor as Judge in Appeal should have *mala fide* given an unjust decision, carries with it no less proofs of its being the prisoner's act, in it is quoted a Letter of the 4th February 1824 which is a Letter from His Excellency the Governor to the prisoner, in which the last words are "having ever considered it the first duty of a Governor to act in obedience to and in support of the Laws over which he presides." Does it not evidently appear herefrom that no other person than the prisoner is the Author? as no other than he had the opportunity to make that quotation from the Letter which was in his possession. I should have

exhibited a Copy of this Letter in order to enable the Court to compare it with the Letter of the 26th April last, had not the prisoner spared me the trouble in his own defence on his exception. For surely he on that occasion not only roundly acknowledged that he was the author of the Letter, but also that he copied the words here alluded to from the Letter quoted.

Were the contents of the Two Letters not sufficient to convince me that the Prisoner is the Author of them, such would appear from the well known hand of his Letters and Writings, which I as well as the Court have already seen.

In the work of Holt already quoted I find the following observation, "Where a Libel appears under a Man's own hand writing and no other, and that is known, he is taken with the manner, and turns the proof upon him and if he cannot produce the Composer, it is hard to find that he is not the very Man."

This alludes to cases where there is no other proof than that the Libel is written in the well known hand of some person. The Two Libels in question are in the well known hand of the prisoner, although he thought proper on his Examination to deny this fact, but here we have another much more significant mark. The Signature of his name "W. Edwards," which in itself would be sufficient even if the Letters had not been written by him to stamp him as the author. Such signature could not have been affixed by any other person than the prisoner, unless by the Commission of Forgery, a crime which cannot be supposed without some reason, and which therefore must have been committed did not the contrary appear on comparing these signatures with other signatures of the prisoner.

When now Your Worships compare these with all the other signatures which are already in the possession of the Court and which have been exhibited by me, and hereto the prisoner has himself opened the road by the manner in which he signed the List of his Witnesses, then I doubt not it will be found that they are not imitated or forged but that they are the own handwriting and signatures of the prisoner himself, which added to all I have already advanced will if I do not very much deceive myself afford the fullest and most complete

proof that the prisoner is the author of the two libellous writings.

I should say much more on the point, had not the prisoner both by his endeavours to prove the contents of the Letters by Witnesses, as well as by his own repeated acknowledgement that he is the author of them on the occasion of his Defence on the exception given more than sufficient proofs of this truth which has already been clearly proved by me.

It is truly singular that after all this, the Prisoner should on his examination have denied to have composed written or signed these Two Letters. Such a denial of existing and proved Facts cannot have any other tendency than greatly to aggravate the prisoner's crime and to evince Self Consciousness of his guilt, for otherwise it would not have cost the prisoner anything when he was asked, are you the author of these writings? to have roundly answered, "Yes." It is to no purpose that the prisoner maintains that the denial annuls his previous qualified acknowledgement that he is the author. It was made in open Court, voluntarily, unasked for, and therefore the more effectual, and it was made with the criminal object of repeating what he had already written in the Two Libels, and of imprinting it more strongly on the minds of the numerous public which were his hearers on that occasion.

(b) I now come to the last part of my second point, that the crime has been consummated by the prisoner.

As long as the crime of Injury is only meditated or intended, so long as the libellous writing is locked up in the desk, and on the first moment he has done, destroyed and consigned to eternal oblivion, so long is there no consummation of the crime, but the moment that the Injurer lets the abuse escape his Lips, or draws the offensive writing from its concealment, then is the crime consummated. It appears to have been once a matter of doubt whether when an abusive writing only reached the person to whom it was addressed the crime could be held for complete, as the offended person could have kept it to himself, but this doubt if it ever did exist is unreasonable, for the intended effect of the offence was attained, as soon as the offended received it. The arrow is shot and when it has hit the mark, it can but little avail the Sufferer, that he can cover the wound with his hand, he is wounded. It is therefore

that we justly find it laid down in the Roman Law, that the injury exists as soon as the injurious writing is delivered. Thus we find it written in the Roman Law in the L. 5, § D. de Injuriis. De Groot in the definition which we have quoted, places the crime in the mere expressing of the Injury, and if we look into the opinions of the English Lawyers such as Blackstone and Holt on the subject, we shall find that the mere sending of an abusive Letter to the man to whom it is addressed is sufficient to ground a criminal prosecution, or as the English Law expresses it, a sufficient publication of the Libel for the above purpose.

In the IV of Blackstone, page 150, we find these words, "The sending of an abusive private Letter to a man is as much a Libel as if it were openly printed, for it equally tends to a breach of the peace," and in Holt Book 3, ch. 5, section 2, Page 283, we read thus : "Proof that the Libel was contained in a Letter directed to the Plaintiff and delivered into the plaintiff's hands is not sufficient proof of a publication to maintain an action but an Indictment or an Information will lie."

In another part of the same work, namely B. 2, C. 12, Page 220 and 221, we find the following, "the sending of such Letter (an abusive Letter filled with provoking Language to another) without other publication is clearly an offence of a public nature, and punishable as such, in as much as it tends to create ill blood and causes a disturbance of the public peace. The Cases on this head of Libel are very numerous."

That now the prisoner is the person who gave the two letters out of his hands, and that they reached His Excellency the Governor, of this I trust Your Worships will not entertain the smallest doubt, I will not even here advance, as I could do, that the Two Letters were delivered by His Excellency himself to me, that they passed from hand to hand, that after I had read them, I delivered them back to the Governor in the same manner, and that they were afterwards sent to me officially enclosed in the letter from the Assistant Colonial Secretary which I have exhibited in this prosecution ; all this is unnecessary, the Official Letter I speak of proves that they were sent to me in the name of his Excellency and therefore that they were transferred from the possession of His Excellency into

mine. If then these Letters were in the Governor's possession, how did they come there ? The answer is plain and natural, they were both according to their contents which cannot lie, addressed to His Excellency, and consequently they were delivered to him, the Prisoner allowed them to get out of his possession in order that they should get into that of the Governor. This, however, the prisoner denies ; he maintains they may have been stolen from his Table or out of his pocket, and therefore have reached His Excellency without the Prisoner's consent, but too late Your Worships. No crime, no theft is presumed. Had they really been stolen from him would he not have reported it, would he not have complained and endeavoured to find out the thief ? Would he not have produced proofs of his good faith in this particular respect in order to enable the Court to judge whether he spoke the truth or not ? But there is nothing of the kind to be found. The Two Letters were delivered to His Excellency the Governor in the customary manner, they are of different dates, and delivered to the Governor at different times, for before the latter was written the former was given to me to read by His Excellency, which I recollect was the 23rd April last, the celebration of His Majesty's birthday ; three days must therefore have elapsed before the writing of the last Letter, and if we attentively peruse the Letter of the 26th April we shall find that His Excellency is therein threatened with a criminal prosecution in case the letter should not be answered within one day. "I shall expect an answer to-morrow or I shall the following day take the depositions and prepare the impeachment for Mr. Stone."

This your Worship is the highly offensive and threatening Language with which the prisoner concludes this Letter, it was therefore the intention that it should be delivered immediately, for within one day the prisoner expected an answer. It was also sent off immediately, and on the first day of the Races, which was on the 27th April, it was given to me by the Governor to read and returned by me to His Excellency. If therefore the assertions of the prisoner be true, two different Thefts of the Two Letters must be proved by the prisoner, he must account for his silence in not giving information thereof, he must prove that he really was sorry for his having written

his last Letter, that of the 26th April, for without an existing repentance he could not have kept back that Letter which required to be answered within one day. Is there now the smallest reason to suppose that the Prisoner did repent? Who is there who has not with me heard with indignation the language of the prisoner before this Court on the 4th and 5th Inst. ? Is such the Language of a Penitent ? No, it was with a laughing countenance that the prisoner in his examination denied to have sent the two Letters, he seemed to await the approbation of the Public to whom he turned round, while he merely to give the prosecutor a little more Trouble, spoke the word No, but with such a countenance, as plainly said to anyone who paid the smallest attention " I am the man that dare do such things, follow my example and you shall find in me a head and a Leader that will undertake anything."

Ad tertiam : I am now come to the third point of my demonstration, namely that the atrocity of the Prisoner's crime demands very severe punishment.

I shall by no means occupy Your Worships' time with the contents of the Two Letters of which I have already said enough to prove that they are in the highest degree libellous, I shall only as it were *en passant* observe that were it here the object to prove the bad faith and malice of the prisoner from the untruth of his assertions, I should have a great deal to say to defend His Excellency from such foul and such false assertions. But such a defence the Governor does not need. I have only at this moment to call the attention of the Court to all the aggravating circumstances of the prisoner's crime, for the crime itself is more than sufficiently proved.

In estimating the Crime of Injury we find it laid down in the Roman Law § 9 Inst. de Injuriis, that the crime increases in proportion to the high rank and situation of the person against whom the abuse is levelled, and most justly, because in proportion as the injured person is higher the greater must be the audacity of the person who abuses him, and the greater is the necessity of making an example of the offender, who when he dares to attack with abuse him to whom he owes respect and obedience would not hesitate to trample and crush the humble when they might come in his way. The Prisoner has dared to attack with the most violent abuse the Governor

who in the name of His Majesty the King holds the reins of the public administration in this Colony, he has done so in writing, he has by declaring that he will be and will act as an open enemy of the Governor, through whose indulgence not a year ago he was allowed to remain in this Colony and earn his daily bread as a Notary, most plainly and evidently evinced his audacity and at the same time his baseness, his crime has therefore almost reached the pinnacle, one step more and the prisoner will contend with the Sovereignty and dare to attack the King on the Throne. He says the Governor is not raised above the Laws. Who denies this? But as long as the Governor in the name of his and our Sovereign holds the reins of Government in his hands, so long must his sacred Function be respected and maintained, and this latter is the duty which will now rest on Your Worships.

The crime of the prisoner which is already so much aggravated by the rank and dignity of the injured person is not the less so by his audacious perseverance therein. Did he not when called upon to give in the names of his witnesses, in forming the List, insult and defame the Governor anew? Did he not endeavour to plant a deadly arrow in the Governor's heart by undermining his domestic comfort? What has not the prisoner done in this very Court? and what will he not still do, if he be allowed on his defence to transgress the bounds of decency? He has already put the dignity and authority of the Court to severe trials, he has in spite of all recommendations and warnings dared to attack the head of this Government with his gross and extravagant abuse, abuse which I will not repeat, Your Worships, because I despise and detest the prisoner's language. He has endeavoured by his seditious discourse in the hearing of the public to form a party, and where will it end, if the weak and the credulous among the public are not deterred from following the same steps by the exemplary punishment of the prisoner? Besides he has shewn that he is incorrigible, once he has been punished by a sentence of one of your Worships with a fine of Rds. 150 for a molest in the House and for abusive language of one of the inhabitants of this Town. Once he has been condemned for contempt of Court, to a month's confinement in the public prison, and even then on undergoing his punishment he shewed that

he was proof against amendment. Now, again, he allows nothing to impede him in his mad course. There must therefore once be an end to such gross and indecent irregularities, and as the punishment of the crime of injury is discretionary, *vide* § 10 Just. L. Ult. D. Injuriis, as the prisoner, in that of libel has been guilty in an aggravated degree of this crime against His Excellency the Governor, a Crime which in its gradations can climb so high that the highest degree thereof is according to the Roman Law punished with Death, *vide* Lex unica Cod. de faur. Lib. (IX. 36), and as he has by his conduct rendered himself unworthy and totally incapable either to act as Notary, to remain in this Colony, or to have the liberty of renewing his evil course in another country, I therefore feel no hesitation to proceed to the following conclusion :

I claim and conclude that the prisoner shall be declared by sentence of Your Worships guilty of the crime of Libel with which he is charged in the Act of Accusation aggravated by the incorrigibleness of his conduct, that he shall therefore be dismissed from his office of Notary Public in this Colony and declared incapable of serving His Majesty in any honorable capacity.

Further that he shall be condemned to be transported to New South Wales or to some other Island beyond the Seas in the possession of His Majesty for the term of seven years to be computed from the day of his departure hence, and to be confined at Robben Island or elsewhere till an opportunity offers for his transportation, with further condemnation of the prisoner in the costs and expenses of the prosecution or otherwise, &c.

The prisoner having been made acquainted with the conclusion of the Claim, and the above-mentioned resolution of the Court being read in the English and Dutch Languages, the prisoner requests a translation of the claim in English as he does not understand Dutch, as also an English copy of the Resolution by which (as he expresses himself) his mouth is to be stopped and both these documents *Pro Deo*, as he is unable to pay for them, being without income in consequence of his confinement ; further saying, that in asking for a translation of the claim, he has no intention to delay the case, for that he

will be prepared within Two Hours after he receives it, to enter on his defence, as he merely wants a sight of it, in order to judge of the merits upon which the Fiscal's conclusion is founded, for that he is confident he will be enabled to prove his innocence.

That with respect to his function as Notary Public, he has no objection against the suspension, as he had already resolved to resign.

The English Assistant Secretary declares not to be able to interpret at once the whole of the Fiscal's claim, in such a manner as not to risk giving a wrong meaning to some point or other of it.

The Court grants the requested Copy and translation in the English Language to the prisoner, while the Court will appoint and communicate to the parties the time for the prisoner to make his defence, after that the translation of the claim and copy of the aforesaid resolution shall have been prepared and delivered to him.

Thus done and resolved, day and year as above.

(Signed) F. R. BRESLER,
P. B. BORCHERDS.

Monday, 10th May 1824.

The Secretary informs the Commissioners that he has requested this Meeting of the Court in order to communicate to them

1st. The receipt on Saturday afternoon last of a Letter from the prisoner William Edwards, and that although he states therein, that it is for his own information, he, the Secretary, nevertheless conceiving it his duty to make this Court acquainted with it in consequence of the information of a part of its contents, which purported to transmit as the prisoner called it, Sketch of a Resolution necessary as an answer to that of the Court, said Letter and Sketch being of the following tenor :

Cape Town, May 8th, 1824.

SIR,—As I am convinced you will give me credit that I would do nothing so disrespectful to you as the circumstances

shewn by the resolution of the Court, recognising the time and manner in which you received my letter, I scarcely think it necessary to suggest that some one must have opened it and perhaps kept it to make a copy.

Being unable from illness to make another Copy for the Governor, I take the liberty to request you will return my letter that I may send it to His Excellency, and perhaps you will also favor me with Copies of the Correspondence of 1817 with the Governor that I may send it to England.

It establishes a thing that must not and shall not exist, "A Man above the Law." A Fiscal might thus be rendered a very useful and safe instrument in the hands of an unrighteous Governor.

For your information I send you the Sketch of a Resolution. I think it necessary as an answer to that of the Court. I am sure you will not take offence that I did not copy it fair on better paper as I am so unwell, spitting blood thro' my too close confinement, it is an exertion beyond my strength.

I have &c.

(Signed) W. EDWARDS.

D. F. Berrange, Esqre.

Sketch.—Taking into consideration that I was unlawfully imprisoned 7 days in a solitary cell, 4 of which I was kept ignorant of the charge against me, that I was denied the use of pen, ink and paper, and all intercourse with the world, deprived of exercise and of air, refused the consolations of Friendship or the advantage of legal advice, that I was led sick into Court to be interrogated, that having denied in truth a knowledge how the Governor got possession of those letters, that the Court having allowed the Fiscal's presumption that I sent them to be received, as a proof of my guilt, that having been frequently interrupted and the line of my argument broken by the impertinent observations of the Fiscal and the Interpreter and the passionate harangues of one of the Judges, a falsehood having been asserted by the Interpreter, that it was unusual to interpret the Fiscal's claim instanter, altho' I have seen him do the same before, and having also unfairly left out part of the Fiscal's, having been curtailed in the means

of my defence and threatened by the Court, if I use any expressions which can have the smallest tendency further to insult any of the Public Authorities, I also feel myself imperatively called upon to declare that I shall proceed in my defence by such argument in justification as circumstances may warrant, binding myself to a strict adherence to the truth, and holding myself responsible to prove everything I say, and further I do declare that if I am again interrupted, I will not proceed in my defence, but consider such proceedings as a denial of justice in this Land of Justice, and lay the circumstances before the King.

(Signed) W. EDWARDS.

Having taken into consideration the above Statement of the prisoner, that he is unwell, *spitting blood, through his too close confinement*, resolved immediately on the breaking up of the Court to cause the necessary inquiry to be made into the local circumstances of the prisoner's confinement. While with regard to the Prisoner's intention manifested in his *so-called sketch of a resolution*, to enter on making his defence into proofs of the several matters contained in the Letters which form the grounds of the present prosecution and thereby giving a new opportunity again to abuse in violation of the Resolution of the Court communicated to him on the 7th instant, resolved to dispose in this regard in such manner as may be found necessary to prevent the same.

2nd. The Secretary likewise communicates to the Court that not having received the translated copy of the claim made by D. Denysen Esqre., His Majesty's Fiscal, on the 7th Instant, he had made an official application to him on the 9th Inst. by a letter of the following tenor :

Cape Town, May 9th 1824.

SIR,—The arrangement agreed upon last Friday was that you should send me a translation of your claim against William Edwards as soon as it was finished, in order to be forwarded to him, and that the Commissioners should then appoint the time for the continuation of the Trial, I therefore take the liberty to request you will inform me, how it is in this regard; it is especially necessary that I should know it betimes, that

the Trial of the prisoner and that of the Defendant in person Bishop Burnet may not impede one another. I have &c.

(Signed) D. F. BERRANGE, Secretary.

D. Denyssen Esqre., H.M. Fiscal.

That he had the same day received an answer thereto from the Fiscal enclosing him the minute of the translation of the claim which he conceived he was bound to return him immediately in consequence of the Fiscal's own remark that it was very erroneous and therefore unfit to be copied.

Said Letter from H.M. Fiscal with the Secretary's reply thereto, being of the following tenor :

Cape Town, 9th May 1824.

SIR,—Through the pressure of my business I have been prevented of resuming the enclosed minute of the translation of my claim, which I regret, because that it appears to me to be partly very erroneous, in case it could be copied and brought to me this evening by the Clerk who does so in order to its being examined with me I could perhaps return it to you corrected so that it may be delivered to-morrow morning early to the prisoner. I must now begin with Mr. Greig.

I have &c.

(Signed) D. DENYSSEN.

D. F. Berrangé, Esqre.

Cape Town, 9th May 1824.

SIR,—I have this moment received the rough translation of your claim contra William Edwards. I see no chance of now being able to procure clerks to copy it against this evening, but besides what purpose should it answer when you write to me that it appears to you to be very erroneous, it therefore requires an attentive correction before it be copied, for which purpose I return it to you. I have &c.

(Signed) D. F. BERRANGE, Secretary.

D. Denyssen, Esqre., H.M. Fiscal.

Of which communication this record has been held.

Done at the Cape of Good Hope die et anno ut supra.

In my presence.

(Signed) D. F. BERRANGE, Secretary.

Tuesday the 11th May 1824.

The president Mr. Bresler exhibits an Act of Enquiry held yesterday respecting the local circumstances of the confinement of the prisoner William Edwards, being of the following tenor :

On this day the 10th May 1824 Messrs. F. R. Bresler and P. B. Borchers, Commissioners of the Worshipful the Court of Justice, at the requisition of His Majesty's Fiscal having proceeded to the Town prison accompanied by W. van Ryneveld Esqre., Deputy Fiscal, and assisted by Doctor Liesching and me the Head Clerk in order to inquire into the Circumstances of the Complaint made by the prisoner William Edwards of spitting blood through too close confinement in a letter to D. F. Berrange Esqr., Secretary to the Worshipful the Court of Justice, and likewise to examine the apartment in which the prisoner is confined, the Commission found the prisoner sitting in one of the upper rooms of the new prison, the door open which comes out upon a Balcony in the open air, and which apartment Dr. Liesching declared to be a very good one. The Prisoner having been made acquainted with the reason of the coming of the Commission, stated as follows :

That when he was first committed and in solitary confinement he was placed in another room, where he was deprived of free air, pen and ink, that this added to the agitation of his mind at the time, occasioned an indisposition which on the day of his trial caused him to spit a considerable quantity of blood in the Fiscal's Waiting Room, which was also the case in the room where he now sat in last Saturday, when he wrote to Mr. Berrangé, that it was not however as a complaint but only in excuse for the badness of his writing, for that as his being placed in solitary confinement was according to the Laws of the Colony, he had no reason whatever to complain of his treatment in the prison.

J. T. Jurgens, Head Clerk

The prisoner having therefore requested of the Commissioner the translation of the Fiscal's claim which had been promised him, the undersigned took upon him to speak to the Secretary on the subject.

Done at the Cape of Good Hope, Day and year as above.

(Signed) J. T. JURGENS, Head Clerk.

The Secretary hereupon exhibits a certificate from the Messenger as a Voucher that the Translation of the Fiscal's claim which he had received only a little before three o'clock yesterday afternoon from one of the Clerks in the Office, had been immediately delivered to the prisoner in order not to lose time, although it was not signed as a true translation, having been made by different Translators, not authenticated, said Certificate being of the following tenor :

I the undersigned Messenger of the Court of Justice at the Cape of Good Hope do hereby certify that on this day the 10th May 1824, I at the requisition of D. F. Berrangé Esqre., Secretary to the Worshipful the Court of Justice, repaired to the Town Prison and there delivered to William Edwards Prisoner a Translation of the Claim of His Majesty's Fiscal contra said Edwards, and conformably to the order I had likewise received on delivery of the same, I judicially informed him that at eleven o'clock to-morrow forenoon his trial should be continued in case he should be prepared with his defence against that time.

To which I received the following answer, which the prisoner signed :

I will be prepared at the hour fixed by the Court and named to me by the worthy Secretary, to whom I beg my thanks may be offered for his kind consideration.

(Signed) W. EDWARDS.

Town Prison, Cape of Good Hope, day and year as above.

(Signed) C. E. ZIERVOGEL, First Messenger.

From which Certificate it further appearing that the prisoner has declared to be ready with his defence, and for which this

present session of the Court was fixed, resolved conformably to the Resolution of yesterday most seriously to warn the prisoner anew, previous to admitting him to make his defence, carefully to refrain from all offensive expressions whatever, and not to reduce the Court to the disagreeable necessity of carrying into effect the Resolution of the 7th inst., for which purpose the following further resolution is passed in order after it shall be pronounced in Dutch to be communicated by the English Assistant Secretary to the Prisoner :

“ As the prisoner in a paper which he terms a *Sketch of a Resolution* transmitted by him in a Letter of the 8th Instant to the Secretary and communicated by the Secretary to the Court, has signified his intention in making his defence to enter into proofs of the several matters contained in the Letters which form the grounds of the present proceedings, the Prisoner is reminded of the Resolution of this Court by which the hearing of any Witnesses whatever whether to prove the truth or falsity of the different points appearing in those Letters has been declined, and as it is sufficiently evident from that Resolution that the Court neither desire nor ever will admit any Evidence either pro or contra respecting the subject of the prosecution, the entering therefore into the contents of the letters in question, to which at all events the mere statement and recapitulation of the prisoner himself cannot add any proof would be a mode of defence which can have no other possible tendency than to insult, annoy, and thereby act directly contrary to the Resolution already passed by the Court in this regard, through which the Prisoner would expose himself to the application of the penalty in that case made and provided. The Court are far from wishing to throw any obstacle in the way of the prisoner's defence, and should the prisoner bona fide conceive that the proving of the truth and existence of the assertions contained in the said Letters is necessary to refute the whole charge of Libel or to extenuate the aggravating circumstances, the Court are perfectly willing that he should assume this position and endeavour to demonstrate its justness with decency and propriety, which the Court feel themselves obliged to declare they consider to be the only defence in point and consequently the only justifiable one.”

The doors being opened and H.M. Fiscal and the Prisoner admitted into Court, the above resolution is previously read publicly in Dutch by the Secretary and thereupon publicly communicated to the prisoner in English, on which the prisoner requests that he may be allowed to keep the said Resolution by him, to serve as a continual warning to him in making his defence, which being granted and the Resolution delivered accordingly to the prisoner, he proceeded in his defence and says to the following effect :

If I have formerly been too warm and have expressed myself with too much passion it is not to be wondered at, as I have suffered so much in my health by my confinement that with the strongest mind I am scarcely able to defend my cause properly. I have been interrupted by the Fiscal probably because the picture I drew corresponded so well with the original, without the Court having reproved or even spoken to the Fiscal for so doing, it is little or nothing to the purpose whether I acknowledge the contents of the two letters, but I am far from denying them. I cannot feel a little the expression of the Fiscal that I should have aimed at nothing less than rebellion, and that I was a Rebel, when I flatter myself that I am a faithful and loyal subject of my legal Sovereign His Majesty the King of England, under these circumstances it is difficult for me to controul myself and not give way to the most agitating sensations, and therefore when I am interrupted in my defence I shall stop and submit my case.

I cannot refrain from one remark on the translation of the Fiscal's claim delivered to me by the messenger, viz., that it is not signed by any Translator or any other person as a proof of its authenticity, and besides it is very incorrect and even contains many grammatical errors.

The prisoner is informed by the English Assistant in the name of the Secretary that the reason of the translation not being signed is because for the sake of despatch it was made by different translators on the orders of the Fiscal who was not at hand at the time the Translation was sent to the Secretary's office, and that it was not the wish to keep the translation any longer from the Prisoner. But that should he desire it, he may still have a Copy duly signed. The prisoner proceeding in his defence further says : After I and Cooke were tried for

a Libel respecting the prize Negroes, I casually saw in the *South African Commercial Advertiser* that an error had been committed in the translation of the Act of accusation so that I have been tried on an erroneous act. Such errors may deserve some excuse in a common clerk, but that men placed in important functions should endeavour to get off by such like excuses is really inconceivable, and such conduct is with respect to myself unfair; neither have I found in that translation of the claim the allegation made by the Fiscal, namely that a Libel according to the Dutch Law is punished for the first time with a fine of Rds. 150, and the second time with imprisonment. In the meantime the translation was made by sworn Translators.

It is of little consequence to me whether it be correct or incorrect, but it ought to be correct, as it is to be laid before Parliament. I shall now proceed to my defence against the claim itself. I shall therefore not in the ordinary way begin from the commencement, but *inverso ordine*, to which I feel myself compelled by the Resolution just communicated to me, by which the bounds of my defence are prescribed. I shall divide my defence into four parts, namely :

1st. On the Laws quoted by the Fiscal.

2nd. On the incompetency of this Court.

3rd. My justification with respect to the two Letters, my civil prosecution and on this civil prosecution itself.

4th. On the non-existence of any legal proof in this case.

Whatever the Fiscal may say of my having made use of slander, I say such insinuations are not called slander, but I trust the Fiscal will not be so bad as to swear to the half of what he has said. I have too good an opinion of him to suppose he would do so.

The prisoner is hereupon reminded by the President of the Court's resolution and warned to go on with decency and propriety without making any personal or ironical remarks.

The prisoner continues: I am perfectly willing to be reminded of that restriction whenever I may transgress it, but I leave my expressions to the opinion of any person. I shall proceed in defence with all respect to the Court, and they can stop me when they please.

The Fiscal has made quotations from the Roman, English and Dutch Law, and springs so from one to the other that I really do not know where to meet him. The Fiscal wants to bring the Roman Law home to *Violation of Majesty* and to declare me guilty of this crime without proving the existence of any Majesty or Sovereignty at the time the Law quoted by him was made, and also in order to apply to me the Dutch Law he has quoted. The Fiscal speaks of a Sovereignty residing in the people. I respect the authority of the people, but I know of no other high authority than that which resides in my King whom only I honor with all my heart. What regards the English Laws the quotation from Blackstone is not here to the purpose, because this Author called the writing of a Letter a libel only when it tends to a breach of the public peace, but that is not the same as writing a Letter to Lord Charles Somerset.

A Governor who throws his Character away (the prisoner was here again seriously warned)—I am surprised that the Fiscal has not deduced from the Dutch Law that I ought to be hanged, for certainly the Fiscal would not be a little rejoiced if such an event did take place. It is worthy to remark that the Fiscal who has drawn his arguments from the English Law has not quoted the work of Simon van Leeuwen's commentaries on the Roman Dutch Law, which has been translated into English by authority of the British Government under the direction of an able Lawyer, which Author in page 481 § 2 says that a Libel for the first time is only punished with a fine and for the second time with double the amount, but it is quite indifferent to me, for the more severely I am punished the better it will answer my purpose.

The Idea is terrible, that I should be sent to a place which is only adapted for bad subjects who as it were have been turned out of Society, and this for Seven Years. I recollect when I first arrived here of a man, who with his accomplices had taken away a ship from Robben Island, having been condemned to Death, and was pardoned on condition of his being transported for life at the expense of Government. My act at all events is very far from being similar to that. I am a professional man, Notary Public in this Colony. I can produce the best vouchers of my character when I came here,

and how can the Fiscal make such a claim when my act even according to the Dutch Law is only a private Calumny ? It is nothing to the purpose to say that it tends to the disrespect and injury of the Governor's character. It is true the Letters are said to contain Slander, but even supposing it to be so, one should make some allowance for my feelings, which were exasperated by liberties taken with my name at the Governor's Table. I was stamped with the hateful appellation of a Radical. I was likewise prosecuted in the case of Cooke by order of the Governor, which I afterwards had an opportunity of seeing, although the Governor denied it by Letter. One cannot have a good opinion of those Laws which place not only a private individual but a person of high rank beyond their reach. This is the case with the Fiscal who in the year 1817 was placed both beyond the jurisdiction of this Court and above the Law.

The Fiscal hereupon requests that the prisoner may be ordered to confine himself to his defence, without alluding to or quoting of things which have nothing to do with his case as the Resolution of the Court specially forbids him to make use of any personalities.

The prisoner was again warned not to expose himself to the effects of the existing Resolution. The prisoner says further, the multiplicity of allegations from the Laws and from all sorts of laws involves me in such a stream of confusion that I see no chance of being able to extricate myself, I shall now proceed to the list of my witnesses. All the witnesses mentioned therein I have called to prove the truth of the facts stated in the two Letters ; for as far as each of them are acquainted with the circumstances. Stone must prove how it fared with him in his appeal with Payne, Dr. Barry and Roberts will prove how the Governor had scarcely made a Law one day before he arbitrarily construed it as he pleased the next. It is true I called Doctor Barry on a former occasion *Little Barry*, but the expression escaped me unawares, and was not said with any intention to offend, for I know that he is the Medical Inspector, and I respect his Talents. The prisoner being recommended by the President not to continue in this manner, says I mention it only on this occasion by way of Apology. With respect to the female Slave of Mr. Van der Riet the

Governor himself well knows for what purpose her evidence is required.

On this expression the Court having been cleared at the request of Mr. Borchers deliberated on the impropriety of allowing the prisoner further to express himself in the manner he still continues to do in defiance of the Court's Resolution, and resolved on the very first deviation therefrom by the prisoner to carry the same into effect.

The Doors having been reopened and the parties and the public readmitted, the prisoner is informed that he may proceed with his defence provided he does so in a proper manner, to which the prisoner makes no reply, still continuing in his seat, but being again told by the English Assistant Secretary that he is at liberty to continue with his Defence, he says in an indecent tone and manner, I have already said in my Sketch of a Resolution in answer to that of the Court which I sent to the Secretary "That I also feel myself imperatively called upon to declare that I shall proceed in my defence by such argument in justification as circumstances may warrant, that I further declare if I am again interrupted, I will not proceed in my defence but consider such proceedings as a denial of Justice in this Land of Justice, and lay the circumstances before the King." Now as my lips shall not utter a falsehood I do not choose to proceed before I am informed and that I know whether I have just now been interrupted in consequence of the arguments I have used or for some other reason. I have already been repeatedly interrupted, but I have passed it over out of respect to the Members of this Court individually, but I will not now proceed until I receive an answer, and will bring such treatment to the knowledge of my Monarch.

The prisoner being informed by the English Secretary, that the Court do not consider themselves bound to answer his question, says that he will not proceed any further, which he repeated on being asked by the Secretary if he has anything more to say in his defence.

The Court having been cleared, the following Sentence is passed and pronounced on the Court being reopened.

The Court having read and examined the proceedings held in this Case, having heard the Claims of His Majesty's Fiscal

together with the prisoner's defence for as far as he chose to proceed therein, and taken everything into consideration which deserved attention or could move the Court, administering justice in the name and on behalf of His Britannic Majesty, declare the two Letters dated the 22nd and 26th April last which form the grounds of the present prosecution to contain the most gross Slander of His Excellency the Governor and also as Judge of the highest Court of this Colony, that the said Letters constitute a Libel under the most aggravated circumstances, that the Prisoner is the Author thereof and consequently guilty of this crime, attended with the further aggravating circumstances that the Prisoner has not scrupled in the course of his Trial and notwithstanding the several warnings of the Court to repeat his Slander publicly and in the most insolent manner, declares the prisoner to be dismissed from his situation as Notary Public in this Colony and incapable of ever serving His Majesty in any honorable capacity, and condemns the prisoner to be transported to New South Wales or some other Island beyond the seas in the possession of His Britannic Majesty for the term of Seven years to be computed from the day of his embarkation, and to be confined at Robben Island or some other secure place till an opportunity offers for his Transportation, with further condemnation of the Prisoner in the costs and expences of this Prosecution.

Thus done and decreed by Commissioners of the Court of Justice, Day and Year as above, and pronounced the same day.

(Signed) F. R. BRESLER,
P. B. BORCHERDS.

In my presence.

(Signed) D. F. BERRANGE, Secretary.

Immediately after the above sentence was pronounced, the Prisoner declared to Lodge an Appeal to the Full Court.

Quod Attestor.

(Signed) D. F. BERRANGE.

Proceedings in Appeal before the Full Court of Justice.

Records held before His Honor the Chief Justice, Sir J. A. Truter, Knight, and the Members of the Worshipful the Court of Justice of the Cape of Good Hope, in the case of C. Brand Esqre., appointed by Resolution of this Court dated the 13th Inst. as advocate in forma pauperis for William Edwards, Prisoner, Appellant from a sentence of the Court of Commissioners dated the 11th inst. on a charge of Libel, contra D. Denyssen Esqre., H.M. Fiscal, Respondent.

Thursday the 20th May 1824.

All the Members present.

Advocate C. T. Brand for the Appellant to request a term to the next Court day.

Advocate Brand exhibits an extract Resolution of this Court, dated the 13th Instant, being of the following tenor :

Extract Resolution passed by His Honor the Chief Justice Sir J. A. Truter, Knight, and the Members of the Worshipful the Court of Justice of this Government, on Thursday the 13 May 1824.

The Secretary exhibits a Letter from the Prisoner William Edwards dated the 11th Inst. requesting of him the Secretary to note an appeal against the sentence of the Court of Commissioners of that date ; and that the assistance of Mr. Advocate Brand may be granted him in forma pauperis, said Letter being of the following tenor :

F. I.

Which request is granted ; and Advocate Brand is hereby allowed accordingly to prosecute the appeal of the said William Edwards in forma pauperis before the full Court.

An Extract hereof without resumption to be granted to Mr. Advocate Brand for his information and guidance.

A true extract.

(Signed) D. F. BERRANGE, Secretary.

And says that his request for time is in consequence of his having received information from the Secretary's Office of this

Court that the Records of the Trial cannot be copied time enough, but that at all events the shortness of the time has prevented him of being so prepared as a case of such importance requires.

The Fiscal submits the request to the Court.

The Chief Justice having hereupon suggested to the Advocate whether he could not prepare himself in a short time to prosecute the Appeal in order that this case may be decided with all possible speed, he engages to be ready to-morrow week the 28th Instant, on which the Chief Justice communicates to Mr. Advocate Brand the Resolution of the Court passed this morning respecting his request to have a Copy of the Records of the Proceedings.

The Court grants a term to the 28th Instant at 11 o'clock in the forenoon.

Thus done and decreed day and year as above.

In my presence.

(Signed) D. F. BERRANGE, Secretary.

Records held before His Honor the Chief Justice Sir J. A. Truter, Knight, and the Members of the Worshipful the Court of Justice at the Cape of Good Hope in the case of C. T. Brand, Esqre., appointed by Resolution of this Court dated the 13th Instant as Advocate in forma pauperis for William Edwards, Prisoner, Appellant from a Sentence of the Court of Commissioners dated the 11th before on a charge of Libel, contra D. Denyssen, Esqre., His Majesty's Fiscal, Respondent.

Friday the 28th May 1824.

All the Members present.

Advocate Brand for the Prisoner William Edwards in order as the Appellant has obtained a subsequent proof to shew that he is not the author of the two libellous writings mentioned in the principal suit previously to make request for such relief and admission during the present sitting of the Court to hear and take the evidence of Robert Haynes and others thereupon in appeal from the Sentence of the Court of Commissioners

dated the 11th Instant, to claim and conclude that the Appellant may be declared to be aggrieved by the said Sentence, and that the claim and conclusion of R.O. Prosecutor and Respondent against the Prisoner and Appellant may be rejected cum expensis.

Advocate Brand exhibiting an Extract from the Records of the 20th Instant says, that after the Summons of His Majesty's Fiscal to hear claim in appeal had been expedited on the 25th Instant, he the Advocate had received on the 26th Instant a letter from the Prisoner of the following tenor :

Cape Town, 25th May 1824.

MY DEAR SIR,—A person having informed me that he has signed my name to the Memorial in the Commercial Hall in imitation of my writing, and I am convinced he also wrote those letters from the intimacy subsisting between us which enabled him to know my affairs as well, as because I have seen him imitate my writing, so that I could not tell which was the original written by me. I shall be much obliged if you will see if the Petition to the King has a signature like mine, and act on it as you think right. I have &c.

(Signed) W. EDWARDS.

C. T. Brand, Esqre.

That as it was not till after the Sentence had been pronounced that the prisoner was informed that one Robert Haynes could give evidence in his behalf, he the prisoner consequently could not have given in his name sooner, that he the Advocate has only two or three questions to ask this Witness, which he is willing to submit to the Court previously to their being answered, and therefore requests relief as in the presentation.

The Fiscal says that before answering to the request for relief, or being able to do so, he expects that the Advocate for the Prisoner will inform him of the grounds of his request for Relief in order to enable him to admit or oppose it.

The Advocate for the prisoner says that he has already stated the grounds of his request, and that he submits it to the judgment of the Court, from which and not from the Fiscal he expects the admission, and persists in his request.

The Fiscal says that all what has been advanced by the

Prisoner's Advocate is nothing to the purpose, that it does not appear that the requested evidence of Robert Haynes has any relation to the Prisoner's letters, that it ought to appear for what purpose this evidence is required, and that without this does appear, he is obliged to conclude for the rejection of the request.

The Court rejects the request for relief.

The Advocate for the Prisoner hereupon proceeding to his claim in appeal, says :

Worshipful Gentlemen.—*Et si verum judicis ne turpe sit, dicere incipientem timere numque deceat, tamen ne non timere quidem fine aliquo timere possum.* With these words Cicero opened the defence of his friend Milo, and addressed the Roman Judges at the beginning of the Trial when he saw the Forum surrounded with glittering Arms. And the sentiments I feel on this occasion compel me to open the defence of the Prisoner in appeal with the same words. It is but a few weeks ago that I was charged by this Worshipful Court to plead the same Prisoner's cause in Appeal from a sentence for imprisonment. Willingly and cheerfully I accepted that order, and when I took upon me to discharge it, I declared the anxiety I felt, then Your Worships I spoke the truth, for I felt but too well the relation in which I as an Advocate stand with this Worshipful Court.

But now a new scene is opened to me, for the second time I am appointed to defend the prisoner in Appeal in forma pauperis, and I feel more than ever the importance, the delicacy of my situation. For against whom have I to defend him, is it not against his accuser, against our Governor ? Is he not accused of having insulted and defamed His Excellency, His Ministers, and His high Functionaries ? Is he not charged with having dishonored Justice, the great bond of all Society ? And the defence of all this devolves upon me, and rests upon my poor weak shoulders. Place yourselves, Your Worships, in my situation, and then ask if I have quoted the words of Cicero without reason, and whether I may not justly say with him “*ne non timere quidem fine aliquo timere possum.*”

I am aware that an advocate standing before the Bar must not fear. I am aware that the function of an Advocate is too

noble that he should feel so base a passion at the Bar, but Your Worships we are men, and we have connections. Besides the crime, the circumstances, the Persons concerned, the Colony, the times, and the political situation in which it is placed, are all causes which must contribute to fill my mind with anxiety, and which demand from me prudence and discretion.

Far be it from me however that these considerations should check me in my endeavours to defend the Prisoner's cause with all the strength and ability in my power. Far be it from me that I should therefore fear to convince the Court of the Prisoner's innocence. Yes, very far is it from me that I should hesitate a moment sincerely to declare that the Prisoner is innocent of the Crime mentioned in the Sentence. Do not imagine Your Worships that I maintain this inconsiderately or rashly. Do not believe that I assert this to place the Prisoner and Appellant in a more favorable light. No, the different conferences which I have had with him since I have been charged with his defence have put me in possession of circumstances that have convinced me, and I consider as certain that Your Worships will likewise alter your sentiments, and that the innocence of the Prisoner will triumph when you are made acquainted with the same circumstances.

What must not the feelings of the Prisoner have been on the evening of the 28th April last, when he was suddenly apprehended? Conscious that he had not committed any crime, he was as if struck with a thunderbolt when the Constables took him into custody. He however obeyed the Decree of the Court, he willingly proceeded to the Prison, where he had nothing else to comfort him in his solitary confinement than the consciousness of his innocence. But what the Prisoner felt on the 1st of May last when he was informed in this Hall in presence of the Sitting Commissioners of the crime with which he was charged no person except the Prisoner who was acquainted with the circumstances can possibly suppose, when he heard two letters read and signed with his name, which he was certain he had never either composed or written; false and forged therefore they must be; this immediately occurred to him, and his suspicion fell at once on a person who daily visited him, who had access to all his Papers, who was fully capable, and able perfectly to imitate both his writings

and his signature. But what to do or how to prove this in defence of his innocence, or how to bring the guilty author of the two libellous letters to justice, all this was for him difficult, and even dangerous. It was here that he could justly have said with Cicero, "*Ego vero quem fugiam habeo quem sequor non habeo,*" but his presence of mind persevered, and he now with confidence looks forward to his final acquittal on the most complete proofs of his innocence.

After the Act of accusation was read to the Prisoner, there was but one means of defence left him, and this was to make the Court acquainted with the name of the person on whom his suspicion fell, but Your Worships what a dangerous, what a rash measure would not this have been for him. Supposing he had done so, imagine that Person before you, he must be heard as an Evidence. Is it now to suppose that any guilty person would voluntarily accuse himself? Compulsion then would be the means, but would any one of Your Worships compel a witness to criminate himself? Certainly not. The Prisoner could therefore derive no advantage from calling the real Author as a witness. Let us then place the accused as accuser; well, but how was he to prove the forging or the authorship of the Letters? The Prisoner only suspected him; he was in solitary confinement; could not speak to any one; could therefore take no measures to prove his suspicions. The suspected person would have denied, and what else could have been the consequences than that he would have been acquitted, and the Prisoner held as guilty and never after be able to find the real author or avail himself of his evidence because he was already acquitted. Your Worships therefore see that the only means for the Prisoner and Appellant, whether to call upon the suspected Author as a Witness, or to inform against him as the Criminal, was equally dangerous and rash, and perhaps in its consequences would have been irretrievable.

The Prisoner therefore was obliged in his defence provisionally to avail himself of an artificial means, and he in consequence gave in to the sitting Commissioner a List of the Witnesses whom he wished should be examined on his behalf. So long as the Prisoner was in solitary confinement, so long he could not speak with any person; so long as he had not secured any proofs against the suspected person, so long was he obliged to

persevere in the provisional defence he had adopted ; hence it was that on the 4th May last, the first day of his trial, he sought to avail himself of exceptions, which were rejected, and we believe with the R.O. Prosecutor justly, because the fourth of his Exceptions was groundless, and the other three were in fact not exceptions. In how far however the defence made by the Prisoner and Appellant on that day was a proof of his guilt we shall hereafter have an opportunity of speaking on. The exception then having been rejected, the Court proceeded to the examination of the Prisoner, who was called upon to plead guilty or not guilty ; not guilty was the natural grounds of the Prisoner's defence, and the summum of his answers was to this effect " that he denied having composed and written the two letters, that the Signatures were neither his, nor written by him ; that he had never had the two letters in his hands, and that they never came into the hands of His Excellency with his knowledge or consent."

Here is a complete denial of everything which constitutes a Libel ; and with the examination of the Prisoner, the first day of the trial was closed at four o'clock, in order to be continued the following day at 10 o'clock in the forenoon. Of the few hours which the Prisoner now for the first time had access to his friends he availed himself ; and it was with the assistance of those who were in his particular confidence that he speedily discovered the author of the Libels. His eyes were opened, his suspicions were strong, but he remarked at the same time that he could not be too cautious. He remarked that the suspected person was very far from having any inclination to declare himself the author, on the contrary that he craftily sought to conceal his guilt and that he was awake. The Prisoner therefore advisedly proceeded in the line of defence he had provisionally adopted, well aware that the crime must be proved before he could be condemned ; but at the same time thinking that he should thereby hush to sleep the real Criminal ; and that this was a well arranged plan of the Prisoner will afterwards fully appear to this Worshipful Court.

On the 5th day of May the Trial proceeded, and was taken up in pleadings between the R.O. Prosecutor and the Prisoner respecting the admission of the Prisoner's Witnesses, which

was decided against the latter. On the 7th the trial was further proceeded in and the charge pleaded by the R.O. Prosecutor; and at last, on the 11th following, the Prisoner was declared to be dismissed from his situation as Notary Public, incapable of ever serving His Majesty in any honorable employment, and condemned to be transported to New South Wales for seven years. That the Prisoner considered himself aggrieved by that Sentence and therefore lodged an Appeal to this Worshipful Court was most natural, for it is a hard Law which condemns a man without proof; it is a Law written with the blood of a dragon. Fortunately however for the Prisoner his endeavours were in some measure crowned with success. He saw with satisfaction that he now and then received visits from the suspected Person, not out of friendship, but for the Settlement of some business of his which the Prisoner had in his hands. In the course of these visits the Prisoner did everything in his power to bring the suspected person to confession, but in vain. He used every endeavour to make him do something through which he could afterwards prove his guilt, which was likewise fruitless. But at last, a few days ago, namely on the 24th Inst., when as if some good angel watched over him, the suspected person came to him in the Prison. The Prisoner remarked that he came somewhat nearer, on which he again set his wits to work to make him commit some act or other which would lead to the discovery of the truth, and luckily succeeded. "I hear," says the Prisoner, "that there is a memorial to the King laying in the Commercial Hall for signature, I wish I could find any body who would sign my name." The suspected person immediately signified his willingness, and his answer was, "I will do it for you," and the following day towards evening he accordingly came again to the Prisoner, saying "that he had affixed the Prisoner's name to the Memorial, and that he doubted if any person could distinguish it from the prisoner's usual signature." This led to a further and much longer conversation, during which he related to the Prisoner that he had written the two letters in question in the Prisoner's usual style and handwriting to His Excellency, and had caused them to be delivered in the Prisoner's name; that he made himself master of the subject of the letters thro' the daily access

which he had to the Prisoner ; but that he had never thought that it would have been attended with such disagreeable consequences. How rejoiced the Prisoner was on this acknowledgement every one will easily feel ; and it appeared as if the Prisoner would speedily have the proofs he wanted, in his possession, for the suspected person promised that he would write him a letter the next morning, that was the 26th Instant, in which he would make that confession, and the Prisoner on his part promised that he would not avail himself of it before the other had left the Colony, which the latter said he expected would be in a few weeks ; but the Prisoner was determined as soon as ever he received it, to place it in the hands of His Majesty's Fiscal, and to make the suspected person pay for the Prisoner's long confinement. The result of this was, that on the morning of the 26th I received a letter from the Prisoner dated the 25th, of the following tenor :

Cape Town, 25th May 1824.

SIR,—A person having informed me that he has signed my name to the Memorial in the Commercial Hall in imitation of my writing and as I am convinced he also wrote those letters from the intimacy subsisting between us, which enabled him to know my affairs, as well as because I have seen him imitate my writing so that I could not tell which was the original written by me, I shall be much obliged if you will see if the Petition to the King has a signature like mine, and act on it as you think right. I have &c.

(Signed) W. EDWARDS.

C. Brand Esq.

It was in consequence of this letter that I immediately proceeded to take the evidence of the witness Haynes respecting the signature under the above-mentioned Memorial, for I had gone to see the signature myself and could perceive no difference between it and that of the prisoner himself. Your Worships however have been pleased to refuse us the examination of this Witness, and it now lays with Your Worships to demand the inspection of that Document in order to discover the truth.

Several times on the 26th the Prisoner sent to this person, sometimes by his servant, then again by one of his friends, to

ask for the promised letter; but his answer always was, "I will be with him in half an hour," and so it continued till that at last towards the evening the Prisoner was unexpectedly informed that the suspected person had left the Colony in the ship *Patience*, and this man was (and when I mention his name, Your Worships will no longer doubt, for he was a convict and had been transported for forgery) Thomas William Parr. So far did this man suffer himself to go, that he did not scruple to lay the most scandalous lies to the Prisoner's charge. So far did he forget himself as to make the Prisoner the object of a criminal prosecution, who is now in danger of losing his honor and his liberty and of suffering an ignominious punishment. But no, Your Worships, I am wrong; I mistake in my supposition; I forget that the Prisoner's cause is to be decided by this Worshipful Court, by Judges whose known probity and uprightness must give me the greatest confidence, by Judges who never yet pronounced an unjust sentence, by Judges whose maxim, as we have learnt in several criminal prosecutions, is, "better that ten guilty should escape than that one innocent person should suffer unjustly."

Before we proceed any farther, we must make one remark on what has been advanced against us, "*qui de rebus dubiis judicat varios esse debent armata odio ira atque misericordia.*" This lesson can never be repeated too frequently to a Judge. It is a safe and a true guide for every Judge in the slippery road of uncertainty and doubt; it must be so here likewise, so that Your Worships may be moved thereby to judge the Prisoner's case without respect of persons. Let not the conduct of the Prisoner on his trial prejudice you against him. Far be it from me to defend that conduct; we cannot do it, our situation forbids us. As a burgher I must honor my Government and its ministers, as a man I must pay obedience to the Law of Society and morality, and as an Advocate I must venerate the administration of Justice. I will not therefore say that Your Worships are not to punish the Prisoner separately for that Conduct; no, far be it from me, for it deserves punishment as a contempt of Court; and this we find laid down in Holt on Libel, Page 154, "There are different sorts of contempt (he says), one kind of contempt is scandalizing the Court itself; the second species of contempt is the calumny of the parties

who are concerned in causes before the Court." But this I pray and entreat of Your Worships, that the Prisoner's behaviour may not be considered as an indisputable proof against him.

I do not allude here to the arguments of proof which may be deduced from his justification ; of this I shall treat hereafter. But endeavours have been used to prepossess the mind of the well thinking Judge by painting the Prisoner in bad colours, by reminding the Court of the prosecution carried on against him on the complaint of Venables, of his imprisonment for contempt of Court, and of the prosecution carried on against him and Cooke on a charge of Libel. Against such influential means we must guard ; against such endeavours we must make resistance ; against such prepossessions we must warn the Court ; they may aggravate the crime when the crime is proved *ab que hoc* ; they may afford consideration for a separate punishment ; but they must not be made the means to assist in establishing a new and separate crime. When Your Worships feel this, when with this golden and everlasting Rule engraven on your hearts, you proceed to judgment in this case, then will I continue, then shall I have confidence ; but if not, then were it better that I should spare myself the trouble. But where do my feelings lead me ? Forgive me Your Worships this doubt ; do I then forget that righteous Judges are this day to decide. I shall proceed, "*qui sententiam laturus est temper asentum hoc teneat, ut non prius capitalem in quem piam promat severamque sententiam, nam ante sua confessione, aut certe omnium, que tormentus aut interrogationibus fuerunt crediti in unum conspirant concordante que rei finem convictus sit.*"

This Lex, 16 Cod. de poen., is not only taught us by the Roman Emperor, Constantine, but is too plainly prescribed to us by our own Dutch Law, and by that of our present Mother Country, that we should deviate therefrom. The Prisoner must therefore be found guilty of the crime with which he is charged either on confession or on conviction. Confession is wanting, for a more complete denial we cannot have than that of the prisoner in his plea. The Court must therefore sentence on conviction, a slippery Road Your Worships, a Road upon which many a Judge has erred and has stumbled. Before we examine

Before we examine

Whether the Prisoner be convicted, I must answer on the first point of the R.O. Prosecutor's enquiry, that I believe with a certain sort of submission, the present case of the prisoner must be tried according to English Law. This has been frequently resorted to by this Court, and the Prisoner especially has a claim thereto, who as being an English Burgher, cannot be expected to be acquainted with the Roman Dutch Law, as in this case his plea, namely ignorance of the Law, is in his favor. Vide Van der Linden's Manual 2 Book 1 afd. § 5 page 204. We shall nevertheless not omit to confirm each point, as well of the Roman and Dutch Laws as of the English. Let us then now see in how far the Prisoner has been found guilty of this crime of Libel by *Conviction*. We must first ask what a Libel is? The well known answer Voet gives us, Pand. 47-10-10 where he says "Literis injuria fit, si quis libello principi vel alteri dato famam, alicujus insectatus fuerit, vel ad alicujus contemptum et indebitum at que infamiam inscriptionem, vel historiam, vel libellum, vel cantileum composuerit, ediderit, vulgaverit, communicaverit, impresserit dolore malo fecerit quo quid corumferit." He must therefore be convicted of having written or composed the Libellous writings, and of having *published*, which latter, namely the publication, is the Chief requisite to constitute a Libel.

For a man who composes a Libellous writing, and lays it in his study without any intention to publish it, is not guilty of a Libel.

This we find taught by Russell on Crimes and Misdemeanours, Vol. 1, Book 2, Chap. 25 § 9 Page 338. And Holt goes further, who will have that the Prosecutor must first prove the publication of the Libel. In his *Law of Libel*, Book 3, Chap. 4, page 269, Holt says, the plea of not guilty requires the plaintiff or Prosecutor on his part to prove all the material allegations, viz. the publication, and all such prefatory inducements as are the adjuncts and qualities of the Offence as stated in the Indictment; (and he says further) in B. 3, Chap. 5, No. 2, page 283, "upon the trial the Libel must be produced, and before it is read it must be proved that it was published by the Defendant, or by others with his privity." The great attention that is paid in England to the publication appears from the case of Rex versus Payne, *vide Gilbert's Law of Evidence*, Page

125. The Publication therefore it is which constitutes the Libel, and it must have had place before any writing can be made a Libel, consequently if the Prisoner has not published the letters in question he has not been guilty of a Libel and he cannot be punished for one. We however perfectly agree with the R.O. Prosecutor, that the sending of a libellous letter is punishable as a libel, *vide Blackstone's Commentaries, Vol. 4, and Burn's Justice, Vol. 3, page 251*, because the Law considers the sending as a publication. But Your Worships, the Prisoner is declared by the Sentence in question as the Author only of the letters, and not the *Publisher*. It would appear therefore that the Prisoner is held for a Libeller only as being the alleged author, without it being proved that he was either the publisher of the letters, or contributed thereto. It is true that Holt says in *Book 3, Ch. 5, No. 1, Page 278* "It has been already observed, that a Libel may be expressed not only by printing or writing, but also by signs and pictures. It is laid down in Lamb's case, 9 Ca. 59, that every person convicted of a Libel must be the Contriver, the Procurer, or the Publisher." But then an aiding in the publication is necessary to be proved against the Contriver or Procurer. Therefore our Roman Legislator says "Dolore malo fuerit quo quid eonem fierit." Therefore also he says not "qui composuerit vel ediderit, vel vulgaverit," but he says "qui composuerit, ediderit, *et* vulgaverit," by which *et* he means written *and* published in order to be convicted of a Libel. We now come to the principal point. We do not appeal against the Act of Accusation, but we appeal against the contents of the Sentence in question. There the Prisoner is declared as the Author only, and as such he is punished as a Libeller. But be this as it may, let us see what has been done to endeavour to convict him of this authorship.

1st. It is said "here is a letter written in your usual hand, and under your Signature." But did not the Prisoner on his examination deny the Signature, yes, even the whole of the letter? And having so denied, must not the Prosecutor prove the contrary against him? Private writings like the letters in question must either be acknowledged or proved. This we find laid down by one of our ablest Dutch Lawyers, namely *Van der Linden*, in his *Manual*, page 271 § 5, where he says:

“ Writings altho’ in Burgherly suits of daily occurrence, are however less applicable in cases liable to Corporal punishment. Nevertheless sometimes letters from the accused or correspondence with him by others can be admitted in evidence, provided however the signature of the Writer be acknowledged or proved.”

It is true we find in *Holt’s Law of Libel Lib. 3, Chap. 5. Page 279*, and likewise in other authors “ that where a Libel appears under a man’s handwriting, and no other author is known, he is taken with the manner.” But Your Worships is this a proof on the principal point against the Prisoner, when he denies the signature and the Writings ? Certainly not. Holt here means that such a signature when it is neither acknowledged nor denied affords sufficient grounds not to condemn the man, but to *grant an information*, the same as granting a decree against the Prisoner. An information as Holt says in *Liber 3, Chap. 2, page 253*, “ whereby the question is only interlocutory, namely whether there be grounds for putting the party upon trial.” Hence it is to be seen that such a signature by its probability authorises the Court to grant an information that is with us to grant a Decree for Summons in person ; but this probability ceases and loses its effect, and is no longer any proof, when the accused as Van der Linden teaches us, denies the Signature on his trial. The Law presumes no forgery, and therefore the Court at first sight believes the signature ; but when the accused denies it, names the person who wrote it, and shews that his signature has been imitated the same as it was done under the Memorial in the Commercial Hall, then the probability ceases, and the onus falls on the Actor. Thus it is in this case, or does one want the Prisoner to prove otherwise that it is not his signature per rerum natura nulla est negantis probatio. The prisoner cannot prove a negative, but the Prosecutor must prove the affirmation against him. “ Ei manufit probatio qui dicet non qui negat.” As soon therefore as the Prisoner denied, the Prosecutor had to prove ; and is it not so in Civil Cases ? When in a Civil case a Defendant denies his Signature, is he not put into the hands of His Majesty’s Fiscal ? Must not the Fiscal therefore prove that it is his signature, and that he has mala fide denied it ; shall one then in criminal cases, shall one when honor, liberty and property

are at stake, deny a prisoner this privilege rei negantis ? No Your Worships, we do not believe it. Why not have called upon the receiver of the Letters in order thereby to find out and identify the person who delivered them ; could not the truth have been easily ascertained by having done so ; have the letters been identified to be the same that were sent to the Governor ? Have the letters been identified by the evidence of the Assistant Colonial Secretary to be the same that he sent to His Majesty's Fiscal ? But it is said the writing the signature is the same as the Prisoner's. Then we are of the same opinion as Gilbert in his Law of Evidence No. 1, Page 47, "that similitude and comparison of handwriting is no evidence," see also the word "Evidence" in Tomlin's Law Dictionary.

What is now the ultimatum, what is now the conclusion of all this ? That the Prisoner has not been proved to be the writer of the letters, and if it has not been proved that the Prisoner did write these letters, then the slight presumption which might have been deduced from such proof entirely ceases, namely the publication or the sending of the letters, the prisoner neither wrote nor published the letters, ergo he has not been guilty of a Libel, and what is a Libel without writing, without publishing ? But one says it is true the Prisoner is not convicted of writing and publishing the letters, but he is proved to be the author of them. I should much wish to know what we are here to understand by the word "Author." Is there not a Causa proxima and a Causa remota ? And is the former the same in Law as the latter ? Certainly not. And thus it is with the authorship also. Besides in order to punish the prisoner as the Author of a Libel, must not one prove that he assisted, that he co-operated to the writing, to the publication, to the completion of the Libel ; must he not be proved quod dolore malo fecerit quo quid eorem fierit. Supposing for a moment that the Prisoner has dictated the two letters to the Writer of them ; the prisoner has however denied having any knowledge of them. We advance the position merely to shew that even were he the author his Authorship notwithstanding does not make him a Libeller. Supposing therefore he had dictated the contents, even this does not constitute him guilty of a Libel. This we find clearly laid

down by the Lord Chancellor in Burn's Justice Vol. 3, Page 251, No. 2. Having premised this, we now ask whence will one prove the prisoner's Authorship ; for this, three grounds have been advanced by the Fiscal in his claim ; and they are the following :

1st. It is said, it is true, the Prisoner has denied on his examination, but both previously and subsequently to his being interrogated he confessed during his defence.

2nd. In the second place one says the Prisoner entered on the justification of the letters, and

3rd. One deduces the authorship of the Prisoner from a comparison of the contents of the letters with the palpable knowledge which the prisoner had of all the circumstances contained therein. Truly Your Worships if men were to be judged by such proofs, if the honor, liberty, and lives of our fellow creatures were to hang suspended on such a thread as this, then were it better that we had no laws.

1st. With respect to the first argument, the Law teaches us that the examination alone of the Prisoner must constitute his denial or confession to the Court ; and that when a Prisoner afterwards in his defence lets any acknowledgement fall from him, it must be voluntarily, it must be wilfully, it must be with an intention to acknowledge. It must not be by way of argument in a passion through error, or in an unguarded moment. No, Your Worships, this would be a hard Law. But should it happen that a prisoner unawares allows an acknowledgement to escape him, then equity, then humanity, without which there is no justice, demands that the prisoner should be asked whether such expressions are to be taken as an acknowledgement.

This is done on the formal examination, there the prisoner's answers having been given are read over to him and he is asked if he persists thereby. Vide Art. 45. of the Crown Trial here, there the Prisoner is afforded an opportunity of retracting if necessary his acknowledgement, and here one wants to consider the prisoner who by way of argument has availed himself of that privilege as having confessed the crime without asking him whether the acknowledgement was voluntarily or whether it was a formal confession. No, this may not be. The solemn answers alone of the prisoner must constitute his confession.

This is fully confirmed by Voet ad pand. 42, 2, 3, where he says, "Requisitur ut confessio sit ex Libra voluntate, non per via motium nec per fererum quendam preeipitatum aut calorum iracundia, quid, quid enim, (says the L. 48, p. 8 de Reg. jur.) in calore iracundia docitur, non primis actium est quam si perseverantia apparuit indecium anime fuisse." Leyse also plainly says in Meditat. ad pand. spec. 473, "Nam quod in consolto forte effienditur proferentem preter intentunem suam legare non debet." But still more to the purpose Herber in his prelect. ad Lib. 42, Tit. 2, where we find it taught "Pro inde confessiones ad interrogatoriones adversarii factæ pro totibus habentur ut efficiant Condemnationes non qua alias fortuito sermone proferentur." And besides all this Gilbert's Law of Evidence, page 123 : what would be more unreasonable, what would be harder than to throw away the honey and retain the poison only ? One takes an inconsiderable expression made use of merely by way of argument as a confession, and one forgets that the prisoner in the same moment in his defence repeats and confirms his denial. We will here merely refer to the beginning of his defence on the 5th Instant, where he commences with confirming his denial. Justly therefore Philips says in his Law of Evidence : "The confession of a Prisoner is not to be taken in parts, but the whole together, that what is given in evidence may be neither more nor less than the prisoner intended." Far be it from me to suppose for a moment that this Worshipful Court will consider the prisoner as having made a confession.

2nd. But one says you have entered into a justification of the letters. Examine yourselves Your Worships, and then ask if the justification of the prisoner must be taken as a proof of guilt. When I propose anything for the sake of argument, is this a proof of my acknowledgement of guilt ? Good God ! Your Worships, where do we find this taught ? But no, this cannot be your opinion. Before one will receive the justification as a proof of guilt or a confession, one must enquire on what occasion and for what reason it was done. We therefore now ask, *What was his grounds for the justification ?* Did he do so in order on the grounds thereof to argue away his criminality ? No, Your Worships, *veritas convincii non excusat.*

But the ground he went on was this, and we refer in this

respect to the records held before the Court below: what took place before he was interrogated, he retracted on his formal examination; what took place *afterwards* he completely annulled by his direct denial at the same time. But one again asks, what was the ground of his justification? We answer see the division of his exceptions, see the division of his defence, and we shall find that he in every part of the same denied this action to be legal or tenable on the grounds of the absence of a *Corpus delicti*, through this absence the prisoner will prove no crime can exist without a *corpus delicti*. There must be a *Corpus delicti*, the act in which the criminality lays. The action of the prosecutor is founded on the Letters. The Letters must therefore constitute the *Corpus delicti*, that is they must contain in themselves something criminal. When now nothing criminal lies in these letters, then they are no *Corpus delicti*, then the *Corpus delicti* is wanting, and then consequently there exists no action. On these grounds therefore it was that the prisoner entered on the justification of these Letters.

We do not ask whether the justification would not do away the Criminality? We acknowledge that the prisoner is wrong in his argument, but is an error in argument to constitute a proof of Confession? In every instance the prisoner spoke by way of argument and for argument's sake, and where is the upright and well thinking judge who will convert an expression used by way of argument into a proof of confession or of guilt?

3rd. We now come to the third point, which at first view strikes the judge and prepossesses him against the prisoner. But *audi et alteram partem*, and Your Worships will immediately perceive that the prisoner can very easily and very naturally solve the argument, and is this the case, then truly every one will openly maintain that the natural solution of a reality, given to a bare *probability* against him, immediately makes this probability a nonentity. The spirit, the idea and the contents of the Letters, the prisoner does not deny to agree with his own. But has the Prisoner published those Letters? No. Has the Prisoner written them? No. Has the Prisoner dictated them to the Writer? No. How came his Ideas then in these Letters? a very natural question Your Worships, and deserving of a natural answer. Read the

prisoner's defence on the 10th Instant, and we shall find his answer there. This seems to have been looked over. One seems, as the Prisoner spoke English and the records were held in Dutch not to have properly understood the prisoner. We find on the records of the 10th Instant that the prisoner is said to have made use of the following words : " It is little or nothing to the purpose whether I acknowledge the contents of the two letters, but I am far from denying them." Forgive me Your Worships, but I stand here as the advocate of the prisoner, and I should be guilty of a neglect of my duty when I passed over the most trifling circumstance which could tend to the exculpation of my Client. That passage immediately struck me on reading it, and the prisoner was no less surprised. I still recollect to have heard the prisoner on the last day, namely the 10th Instant, when speaking of the two Letters at the place alluded to say verbatim : " which " (meaning the Letter) " I deny, but God forbid I should deny its contents in common conversation." These were the words the prisoner used, and no others, and the difference is very great when one admits what is on the records. One can deduce a sort of imperfect confession therefrom, but when one hears the original expressions of the Prisoner it will then be found that he only signified thereby that altho' he denied having written the Letters he was very far from maintaining that the Contents were untrue or that he would not have expressed himself in the same manner in common conversation. This explanation must therefore serve as an answer to the question, How did you become acquainted with the Contents if you are not the author ?

We have already told the Court how intimate the above-mentioned Parr the forger and the writer of these letters was with the prisoner, how he daily visited and sometimes spent the whole of the day with the prisoner, how he was acquainted with all the secrets, feelings and ideas of the prisoner, and how he had read all the letters of and to the prisoner. Frequently and perhaps too frequently the Prisoner discoursed with Parr about his affairs, and when the prisoner once told him that he had been called a Rebel and a Radical, and when sometimes speaking to Parr in anger and in passion he was in the habit of saying " If I was allowed to write I would write so and so,"

and then in the same breath he began to tell him how he would write. Any person who has had an opportunity of conversing with the prisoner must have experienced how he, getting on any particular topic even with a single person, speaks as if he was writing. But he then little thought he was speaking to a man who perhaps was made the means in the hands of others to crush him, to ruin him, little did he think that the Devil stood behind him, and that Parr would so infamously abuse the openness of his heart.

See there Your Worships the reason why the prisoner knew so well how to explain everything. See the reason why the prisoner was so well acquainted with each of the Subjects, for they were stolen from him. The fruits of a private conversation were torn from him in order therefrom to construct a libel in his name. What Parr told the person in his private Confession, or by whom he was made use of, to rob the prisoner in that manner of his secrets, in order by these means afterwards to ruin him, this the prisoner did not communicate to me, otherwise I should have considered it my duty towards the promotion of the Ends of Justice to have made it known to Your Worships. This the prisoner will bring himself before his Judge, and we are assured by Your Worships that the noble blood which flows in your veins will fill your minds with Scorn when you are made acquainted with what has been done and what scandalous means have been resorted to, in order to ruin the prisoner through the medium of a third person.

But to return to the Case itself, we ask has the prisoner been guilty of a Libel by making use of slanderous words in a private conversation? The Law teaches us not. The using of slanderous words and expressions could perhaps afford grounds for another action, of this however we even doubt, because a private discourse cannot be said to tend to a breach of the peace, but we are prosecuted for a Libel, and no Libel is committed by words. The very term itself shews this, and we find it abundantly proved in Russell on Crimes and Misdemeanours, Vol. 1, Book 2, Chap. 25, Page 239. But then again it is said, the style of the letter betrays you, it is your usual style. What, shall the style of writing be admitted as a proof? When I proceed so far as to imitate a man's handwriting and signature, shall I not naturally use all my

endeavours to imitate his style? Have we not examples enough of this? Do we not find in the works of Homer and Xenophon compositions which from their similarity of style were for years considered as their works till that the great Rhunkenius and Wyttenbach discovered the forgeries? Do we not know that the *Orationes post Reditum* were for many years classed amongst works of Cicero, and have we not in later days discovered that they were well imitated, but not the Works of Cicero himself? Here Your Worships are examples that speak plainly, and shall the style then be admitted as a proof against a reality in deciding on the honor and the liberty of one of our fellow creatures? No, Your Worships, do not think thus. No, this does not agree with the humane principle recited by Blackstone in his Commentaries, namely "When a prisoner is put upon his trial, the Clerk says, 'God send thee a good deliverance.'" This is a humane principle, and it is that of Your Worships.

And as it has now been abundantly proved that the prisoner is not the Author of the Letters or rather of the Libel, I have no hesitation to say that I confidently expect an acquittal. It will perhaps be said that we have not completely proved anything, but Your Worships will keep in view that our proofs are of the same nature as those of the prosecutor. He has neither proved anything, but he deduces conclusions and probable presumption from a *quasi* confession.

We are however not yet done with the Sentence, the prisoner is thereby declared to be author of the Libel, and branded with infamy and condemned to seven years Transportation. What Law prescribes this punishment? The Dutch Law? No, what does Groenwegen say *de Leg. abrog. ad L. unie de fam. libele*? Hodie famoso Libele pœna capitalis esse desert, Hic in Belgio diversa exstant principium nostrarum Edicta Noirssimi a D. D. ordinabus generalibus edita, sunt placita quibus prima vice 100 caro lexiorum muleta demdi duplum alique arbitraria pœne, huic cupitatis pœna surrogavit.

This is likewise confirmed by Van Leuwen in his Roman Dutch Law, page 479. But we pass over these authors, and refer to the last placaat which was enacted on this subject by the States General, I mean that of the 7th March 1754, to be found in the 8th vol. of the Great Placaat Book, page 570.

It is therein prescribed and enacted that whoever shall in future make pasquinades or Libels in which the Government or any of the high authorities are defamed shall be punished for the first time with a fine of f. 3,000 (not transportation but correction) and for the second time with a fine of f. 6,000 and banishment (not transportation but banishment) out of the Provinces of Holland and West Friesland ; now supposing that the prisoner was proved to be the author of the two libellous writings in question, then it would be the first time, and therefore the punishment cannot be more severe than a fine of f. 3,000 and discretionary correction. This is too positive to admit of a moment's doubt. It is in vain that one quotes the placaat of the 18th January 1691, in order to deduce therefrom that the Court should have the right in the present case to impose a discretionary punishment on the Prisoner, because that Placaat was abolished by the later one of 1754, *Lex enim posterior abrogat Legem priorem*. But supposing that the punishment in the present case must be discretionary, then this discretionary punishment must be less than the one prescribed by the placaat of 1754 of a fine of f. 3,000 and discretionary correction. The placaat of 1754 at all events prescribes the punishment when the libellous writings are directed against the high authorities as is the case here, while that of 1691 regards pasquinades against private persons, and this is plainly laid down by our latest writer on the Roman Dutch Law, whose competency and decisive authority nobody will dare to reject, I mean Professor Van der Keetel in his *Thes. Select. Thes.* 802, page 273, where he thus expresses himself, *Pleraque leges Holland val. Severiores* (Thus the Placaat of 1754 is called a severe law) *de Libellis famosis ute novissima, 7 Maart 1754 respicere videntur ad injurias personis publicis illatas aut illas quibus discordia civilis in memoriam vocantis ad usque libelli famosi imprimatur avis ob alias causas vulgate non certa sed arbitraria pœna est*. If the Prisoner therefore is to be punished by a positive Law then it must be less, that is less severe, than that of 1754. The present punishment is illegal in both cases. But is the punishment perhaps imposed according to the English Law ? Here must I also answer No, for by English Law the punishment is a fine, vide Russell on Crimes and Misdemeanours, page 349.

See there Your Worships our task completed. I have as an advocate done all in my power to acquit myself of my duty. I have done. You have heard me with attention and with indulgence, for this I thank you in the name of justice. But now comes the most difficult part of Your Worships' duty. The judge must decide *Secundum acta et probata*. This is an easy duty when a confession exists, it is an easy duty when there is a decisive conviction. But Your Worships where the prisoner denies the crime, where no proofs whatever exist, where there is only an opinion, a presumption, where the Judge has to suck the poison of confession and guilt from the prisoner's defence, then is your duty difficult and dangerous. Judges, you are men. Men have erred. You can also err. But oh! Let not your errors, let not your misapprehensions fall on the innocent head of the prisoner, let not the innocent suffer where the guilty should be punished with the sword of Justice. Judges, as there are no proofs, do not take the judgment on your consciences, do not burthen your consciences with the condemnation of an only apparently guilty, but really and truly innocent person. The late trial of a gang of Slaves has shewn us that we have Judges who will not shed innocent blood. Then we looked up to this tribunal with wonder, then, we, then, the Public, venerated Your Worships from the inmost recesses of the heart, then we saw how Your Worships hesitated to condemn where there was not sufficient proof. Thus we saw Your Worships do with respect to Heathens who had perpetrated one of the most shocking murders. Here Your Worships have to judge a Christian, here you have to judge of a man against whom there are no proofs whatsoever, against a man who through the most detestable snares of another is seemingly guilty. Then you filled the minds of all with wonder, now all look up to you with anxiety for the result of this day. Judges, I now speak for myself, I speak for my fellow citizens, I speak for my native country, yea even I speak for yourselves, Your Worships will this day constitute a precedent, you will this day prescribe whether an opinion, a presumption, or a full and complete proof is necessary for a condemnation. The lot of us all is this day in your hands, your own boast as well thinking and righteous judges stands this day to be confirmed, the boast of this our native Country

that we have honest and upright Judges, to rise, to fall. This day you will decide what we, what the mother Country, what our children have to expect from you, for you Judge of them also for the future. Judges, Judges, I look up to you as the Defenders of human Righteousness, I look up to you as the Messengers, as the Representatives of Divine Justice, and I conclude, ut in presentatione.

The Fiscal hereupon says in Answer :

Worshipful Gentlemen !—When this case was before the Court of Commissioners on the 11th Instant, I heard the prisoner plead two arguments in his defence, the only ones if I do not deceive myself which he advanced ; one was the non existence of any proof that he is the author of the two Libels in question, the other, the improper application of the Dutch Law in his case. Conceiving that these would be the principal reasons upon which the prisoner would ground his appeal, I have given these some consideration, and the result is, that I am the more and more convinced that the Sentence of the Court below justly and truly declared the prisoner to be guilty of the libels with which he stands charged, and that he is the author of the two letters which constitute the subject of the charge. The proof that he is the author of the two Letters I have shewn in the first instance to be herein :

(a) In his style of writing, already very well known to this Worshipful Court.

(b) In the statement of the circumstances which connected as they are in both Letters could not have flowed from any other channel than from the prisoner.

(c) In the handwriting, especially of the Letter of the 22nd April last, which on being compared with the letter of the prisoner will be found to correspond.

(d) In the signature of his name *W. Edwards* under both the Letters, which Signature could not have been placed there by any other person excepting him unless with his previous knowledge and consent without the person so doing having been guilty of a most criminal forgery.

(e) In the evident and perfect similarity of these Signatures with the usual manner in which it is sufficiently well known the prisoner signs his name, and finally

(f) In the Voluntary Acknowledgement of the prisoner himself that he is the Author of the two letters, which cannot be washed out by his subsequent denial when examined on interrogatories.

Against all these united proofs the prisoner has only advanced 1mo. That his acknowledgement was founded merely on the supposition, if he were the author, but that it was by no means an unreserved acknowledgement.

2do. That besides, he had retracted that acknowledgement on his examination. 3tio. That the not producing of a single witness must necessarily be considered as a defect in the proof.

I shall answer these points separately, ad 1mo. The acknowledgement of the prisoner before the Court below was voluntary, unasked, unreserved and positive on pleading his exception of incompetency when he spoke of the pretended non existence of any Corpus delicti and found good to expatiate on period for period first of the one letter and afterwards of the other, he took to himself everything that is written therein. I need scarcely remind the Commissioners who constituted the Court below of the violence in which he launched out respecting the hateful appellation of a Radical, that he alleged His Excellency had allowed it to be applied to him in His Excellency's presence. Of his defence of the first letter of the 22nd April last which he founded on that supposed provocation, which defence was not at all in point, in case he did not acknowledge, as he actually did acknowledge, that he was the author of that Letter, repeated threats that he would clip the wings of the Bird which he describes in his first Letter under various appellations ; of his explanation of what he meant by the expression of the " insolent and peremptory threat of His Excellency's Private Secretary," of his defence of the remark that he was lost in a maze in a labyrinth, a defence which particularly attracted my attention because he defended that point leaving out the words, *of injustice, incongruity and inconsistency*, as if these words did not mean anything, and how many other remarks did he not make which were grounded on his acknowledgement that he was the author of that Letter. Respecting the Letter of the 26th April, I need only to remind the Commissioners of his acknowledgement that everything

mentioned therein about the case of R. Stone versus Payne and the intention of the former to seek redress from a higher Court was true, and in particular of his quotation from the Letter of the 4th February last, which he allowed he had received from His Excellency the Governor and from which he confessed to have taken the words "which you have ever considered, &c.," an acknowledgement so qualified, so confirmed, cannot admit of any further doubt. This voluntary and unasked for acknowledgement made by the prisoner in Court with the palpable intention of perpetuating the malice he had already committed in writing by publicly repeating and renewing in the face of a numerous audience collected on that occasion, the Slander contained in his two letters cannot be afterwards annulled by merely retracting what he had previously said. This alone is in itself according to the Dutch Law, which is supported by the English Law, a sufficient proof of the crime which is so confessed (*vide Chitty I 570-573*). Against this the prisoner alleges, he only acknowledged for the sake of argument, and appeals to Gilbert's Law of Evidence. The prisoner likewise grossly errs when he maintains that there exists no proof except in the depositions or examinations of witness.

According to both English and Dutch Law proof may be derived from mere circumstances or from public or private documents. With respect to the English Law see what Chitty says 1-563, and in the Dutch Law Matthews de Criminibus ad Lib. 48 d. Tit. 15, Cap. 6.

The second part of the prisoner's defence is founded on the Dutch Law, and if I do not deceive myself he quotes the work of Simon van Leeuwen on the Dutch Roman Law, which has been translated into English. I did everything in my power in the Court below to preserve simplicity, and without quoting many authors to confine myself in the definition of a written Injury or Libel (which words in a general, and in the Dutch Law in a very usual sense, are synonymous terms) to the doctrine laid down by one of our first Lawyers Hugo de Groot. I conceive I have not erred herein, and what regards the punishment of the crime I have maintained that it is left to the Arbitrum Judicis in consequence of the great difference which exists in

the greater or lesser culpability of the one or other Libel, while I have finally shewn from the Roman Law that the dignity of the Person injured demands the special consideration of the Court in judging of the Crime. In the work of Van Leeuwen quoted by the prisoner, Book 4, Ch. 37, § 2, page 481, we find that a Libel is punished for the first time with the penalty of one hundred Guilders, this does not agree with my position and I shall therefore pause a little on this quotation of the prisoner.

That I may not be unnecessarily tedious, I request Your Worships will be pleased to recollect that Van Leeuwen's Roman Dutch Law was published in the year 1664. Vide his preface. The *Censura Forensis*, subsequently published by this Lawyer, contained a better and more explicit demonstration of the Laws enacted during his Life on this subject, vide P. 1, L. 5, C. 25, § 9, but in order not to be brought into the wrong road by this author, I shall refer to the Laws which were published after his death, and in particular to a law which was promulgated about thirty years after his Roman Dutch Law was published. I allude to the Placaat of the States General of the United Netherlands of the 27th January 1691, which is to be found in the Great Placaat Book IV, 390, wherein *the making or printing of any sort of scandalous or defamatory Libels or printing under whatever Name or Title such may be either with or without the name of the maker or printer*, and some other transgressions mentioned therein are all forbidden on pain of *Corporal punishment, at least public scourging*. In this Law, enacted thirty years after Simon van Leeuwen's time and never abrogated by any later law, not a word is said about a fine of one hundred Guilders, the least punishment prescribed therein is *Public Scourging*.

There is therefore a gradation of punishment gradually ascending from this as the least, which certainly cannot otherwise than fall very heavily on the prisoner, who must be considered guilty of the crime of Libel in the most aggravated degree, and consequently totally exclude even the idea of a fine of 100 Guilders.

Still later Dutch Laws refer the Courts to the abovementioned and other placats and to the written Law according to which

the punishment of the crime of written injury is arbitrary. Vide Lex ult. d., De Injuriis. Such is also the placaat of the States of Holland, Zealand, and West Friesland in which it is said that the making as well as the publishing of such writings against any of the constituted High Authorities shall be rigorously punished, according to the written Laws and placaat of the Land. Groot Placaat Book VII, 820. All of which yields a clear and incontrovertible proof that with respect to such written injuries full force and effect was allowed to the Roman Law, by the Laws of the Netherlands, wherefore in case of the existence of any of those most aggravated Libels without a name which are evidently alluded to Lege Un. Cod. de far. Libel, I should feel myself compelled to conclude against the makers of them *usque ad mortem*.

It may perhaps be necessary on this account to say something in answer to the arguments which will be drawn from the words—Sani si quis Devotionis &c., and this we shall find laid down by Boey in his Law Dictionary under the word Libel, which is likewise summarily stated by Van der Linden in his Manual 11, Book 5, A d 516, page 250.

I therefore conclude for the rejection of the claim and conclusion made against me as R.O. Respondent in Appeal and that the sentence of Commissioners passed and pronounced in this case shall be confirmed by sentence of Your Worshipful Court with condemnation of the Prisoner and Appellant in all the costs incurred in this case.

The Court having read and examined the Records held in the first instance, having heard the pleadings on both sides in appeal, and taken everything into consideration which deserved attention or could move the Court, administering Justice in the name and on behalf of His Britannic Majesty, declare the Appellant William Edwards not aggrieved by the Sentence of the Court of Commissioners dated the 11th Instant here in question, and therefore confirm the said Sentence with condemnation of the Prisoner and appellant in the costs and expenses of the prosecution.

This done and decreed in the Court of Justice at the Cape of Good Hope, day and year as above.

(Signed) J. A. TRUTER,
W. HIDDINGH,
W. BENTINCK,
J. H. NEETHLING,
F. R. BRESLER,
J. C. FLECK,
P. J. TRUTER,
P. B. BORCHERDS,
R. ROGERSON.

In my presence.

(Signed) D. F. BERRANGE, Secretary.

On this day May 29th 1824 the prisoner William Edwards requested by letter to lodge an appeal against the above sentence.

Quod Attestor.

(Signed) D. F. BERRANGE.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 30th May 1824.

MY LORD,—I transmit to you enclosed an Act of the Legislature, entitled “An Act for the Registering of Vessels,” and I likewise transmit to you a copy of a communication which has been received from the Secretary to the Board of Treasury enclosing one from the Secretary to the Commissioners of Customs, together with forms of the Bonds to be given under the authority of the 19th, 20th and 24th Sections of the said Act; and I have to desire that you will direct the proper Officers of Customs to guide themselves by the said forms of Bonds in all their proceedings relative to the Registering of Vessels within your Government. I have &c.

(Signed) BATHURST.

[Copy.]

Letter from LIEUTENANT COLONEL BIRD *to the* COMMISSIONERS
OF ENQUIRY.

LIESBEEK COTTAGE, 31st May 1824.

GENTLEMEN,—I have just received a Letter from Mr. Wilmot Horton, by which I am informed that Earl Bathurst has deemed it advisable to transmit to you certain affidavits of Mr. William Parker containing charges against me in order that you may immediately proceed to examine into the charges brought against me in those documents, and in reporting the result of your investigation, transmit whatever documentary evidence I may produce in refutation of those charges. I beg to say that nothing can be more satisfactory to me than at length to have an opportunity of refuting the many calumnies that disappointed Individual has spread in my regard.

I need not remind you Gentlemen of the sad position in which I am placed by the heavy calamity which has befallen me, by which I am prevented leaving my couch, but for this I should deliver the present communication myself that I might the better express my anxiety that this business should be speedily gone into. I have &c.

(Signed) C. BIRD.

[Copy.]

Letter from the COMMISSIONERS OF ENQUIRY *to* LIEUTENANT
COLONEL BIRD.

CAPE TOWN, 31st May 1824.

SIR,—We have just had the honor to receive your letter of this date, in which you inform us that you have received an intimation from Mr. Wilmot Horton that certain affidavits of Mr. Wm. Parker containing charges against you had been transmitted to us for the purpose of their being investigated and reported upon. The Instructions of Earl Bathurst conveying the papers in question having arrived by the last

Mail, we intended to have taken the earliest opportunity of making a communication to you on the subject.

We regret to find that you still continue to suffer from the effects of your late accident, and as you are unable at present to attend at our office we propose to furnish you at an early date with such a statement of the charges preferred by Mr. Parker as will enable you to prepare the documentary evidence that you may wish to produce upon the subjects to which they relate. We have &c.

(Signed) JOHN THOMAS BIGGE,
W. M. G. COLEBROOKE.

[Original.]

*Letter from MR. CHARLES D'ESCURY to the COMMISSIONERS
OF ENQUIRY.*

INSPECTOR OF LANDS AND WOODS OFFICE, 31 May 1824.

GENTLEMEN,—I concluded the letter I had the honor of addressing to you on the 29th instant by saying that I intended to make the motive ascribed to me for bringing forward my public papers the subject of a subsequent Letter; permit me therefore now to address you on that subject.

It is plainly stated that my motive is a personal one, arising from the disappointment I have experienced from the Governor not having performed his promise to me.

Gentlemen, whatever the faculty of some men may be for diving into the motives and searching out the private characters of Individuals, unless the exercise of that faculty be guided by impartiality, and tempered by a just and liberal principle, it is an unenviable acquirement in the possessor, and when then it should further be accompanied by *power*, it might become most dangerous to those on whom it is exercised.

I do, Gentlemen, most solemnly protest against this imputation, as unworthy the character of a Gentleman, and doubly unworthy the *station of a public Servant acting in the discharge of his duty towards the Public*, and as such militating against the public good, private worth, and Individual welfare. For

were the charge of such motives admitted on any other but the *clearest proofs* against a man whose public and private character stands otherwise unimpeached, to what pernicious result would it not lead ? Then such a man having a private grievance to complain of could not, in the discharge of his duty, bring forward a public question ; he could not even prosecute a private action, against the same Individual, without the risk of being charged and considered as acting through *pique* and *revenge* ; and were this once admitted, a conscious offender would have only to pick a private quarrel with the person whose duty it would otherwise be to expose him, in order to get rid at once of his opponent and of the question itself ; while, in proportion to the offender's *power*, *interest*, or *support*, the honest man would be stigmatised, crushed, and sacrificed, lest under more favourable circumstances he might return to the charge and prove the offence.

Applying this general argument in its mildest sense, and only in illustration to the present subject, and allowing what, Gentlemen, I believe you will allow, that the several subjects I have brought to your notice are of that importance that, considering the nature and object of your Commission in this Colony, it was a duty incumbent on me to bring them forward, and then permit me to ask you, will any one say whether, situated as I am, having such a duty to perform, with the powerful interest which Lord Charles Somerset has to support him opposed to me, whether I had any other alternative than to take the strongest possible ground, roundly stating *facts* in a manner that admitted of no equivocation, or to pass over in perfect silence those circumstances which it was my bounden duty, in common honesty to the public, to state ? I must repeat again, because I will not have it said that this was a *voluntary* step of mine, *unnecessary* and *uncalled* for, and so give to it the colouring of the private motive thus unjustly, and, pardon me, illiberally, ascribed to me. I must repeat, at the call of the Country, and by His Majesty's commands, the situation of the Colony, its various Institutions, regulations &c. were to be enquired into, and every Individual connected with the public Service in it was summoned to hear the object of your Mission read ; it invited, consequently *commanded* them to assist in the object proposed ; this therefore marked

out the line I had to take, in which I have acted from obedience only, and what I have stated has nowhere a retrospective view for investigating the *past*, but everywhere the expressed object is to *prevent the recurrence, and to establish better regulations for the future*. I allude exclusively to the improper distribution of the Public Lands and the partialities, and irregularities, that have attended that distribution, in the extent and terms of the grants, and in the subsequent alterations that have been made in them, as favours to particular Individuals. Had I then stated these circumstances only *superficially*, and supported them *feebly*, whereas these grants &c. are the acts of the Governor himself, will any one say who views them in all their bearings, as they would have been felt in another quarter, that Lord Charles Somerset would not have seen and acted upon the expediency of using every energy to refute, and explain away, what I should have *so* stated ? And what then ? My statements would have been overthrown, I should have been held up as having brought forward *charges* (as they would then have been called) I could not substantiate. His Lordship's resentment would have been kindled against me in full blaze, his object must have been to crush me, which his interest would *then* have effected, and my inevitable ruin must have ensued : no after statement, however strong, no subsequent illustration, however pertinent, could then have availed, nor would they have been listened to, and thus beaten, stigmatised, and ruined, I should have been generally condemned ; no one would have felt interested in the subject, so as to take up my cause, I could not have called upon the Country to support me, for by the weakness of my conduct I should have deserted its cause in this Public inquiry, and rendered myself unworthy of its protection, *but on which now I firmly rely*. . While those irregularities &c., which are necessary to be corrected and provided against, would probably have been overlooked, and thence confirmed, from not having been sufficiently exposed in the first instance, and subsequently lost in the general overthrow of my statements.

These, then, Gentlemen, were my motives, in the first place, for bringing forward my official statements, and in the next place for supporting them in the manner I have done ; however those supports are no more than *naked facts* to be dressed

up to the taste of whomsoever may choose to do so, but with the fashion of which I have carefully avoided to interfere.

It will be necessary for me now to meet another point stated against me in this discharge of my public duty, and adduced to support the former, (*that of having acted from private motives, and gone out of the regular course to do so*), namely, that I did not await the arrival of the Commissioners here, but sent my papers to the Colonial Office in England direct, in order to be laid before My Lord Bathurst.

I cannot but wonder that such an argument should be set up in the face of so clear an exposition of my motive for sending those papers to England, as is explained, first to Mr. W. Horton in my letters of the 3rd and 15th March 1823 (the Copies are in your possession), and next in the Memorandum addressed to yourselves, dated 25 July 1823, which accompanied the said Papers when I had the honor of presenting them to you; Copy of the latter I shall beg leave here to annex, and it will doubtless also be in Mr. Bigge's recollection that the first time I had the honor of seeing him, which was on the same day when the Commission was opened, I took an opportunity of suggesting to him the expediency of taking the subject of the Land Tenure into his consideration, *at as early a period as might be consistent with his other arrangements.*

Now, Gentlemen, this Memorandum I think shows plainly that, so far from having used any improper precipitancy in forwarding these Papers, I would not even have transmitted those that relate to my private case, urgent as it was, had it been known here at the time that a Commission had been appointed. When this was known *subsequent to transmitting the former*, I prepared my Public Papers, and these were sent only because that the importance of taking the state of the Land Tenure into consideration did not admit of the delay which the arrangement of your first going to the Isle of France and Ceylon would have occasioned. The papers I sent were cases that *had all been before the Governor*, but on which His Excellency's decisions appeared to me to rest on principles which I considered in themselves erroneous, and injurious in their effects, and which as such had been argued ineffectually by me with His Excellency.

But, Gentlemen, the moment of your coming to this Colony

first was known here, I *sent no more papers home*, but continued to prepare such as were to be laid before you, which in fact I have persevered in since your arrival, and have from time to time presented them to you, up to the present day. I have therefore in the first instance acted upon the reasonable conclusion, that if you came here to examine and enquire into the several branches of the administration, it was of course necessary that you should be furnished with such subjects as required examination, in which I was subsequently confirmed by the opening of your Commission, as above alluded to, and *upon the strength of which I have ever since acted*, in following up the principle I had begun upon, in a manner that will, I trust, be ultimately approved by you. But what effectually must do away, in every unprejudiced mind, the intention on my part of connecting those public matters with my private case, is that I have brought nothing of a secret or questionable nature before you, nothing beyond the line of my office, but every subject so submitted to you *had first been regularly laid by me before the Governor, and it is only on the result of His Excellency's decisions, which I think erroneous, that I have arrested your attention*; except in those cases in which my office was passed by, and where I think it should have been considered. And, moreover, will any one who has seen my private case, and the exposition of it in the Letter addressed to you, say, that it did not speak sufficiently for itself, without requiring the assistance of extraneous matters to illustrate or strengthen it? I think that case can safely rest on its own merits, and that nothing requires to be added to the arguments or illustrations by which it is supported.

I have thus endeavoured, Gentlemen, to reply to the two charges brought against me, of having *unreservedly charged* His Excellency the Governor with having corruptly made an extensive grant of Land &c.; and secondly to have done so from the base motive of revenge, which charges, so totally unsupported by anything like argument, much less by *facts*, resting on nothing more than a gratuitous Construction, not warranted by the circumstances from which it is derived, affecting my character, public and private, and threatening myself and family with consequences that must involve them in ruin, and that while, God knows! in the purity of my heart,

discharging what I know to be my duty to the Public, which charges in every part of their bearing, I solemnly and unreservedly deny as most unjust, and I beg leave, Gentlemen, through you, to appeal to my Lord Bathurst for an acquittal of these undeserved and unwarrantable allegations, alike affecting my honor and my welfare, in whatsoever manner His Lordship's own sense of Justice shall direct. I have &c.

(Signed) CHS. D'ESCURY,
Inspector Govt. Lands and Woods.

[Original.]

*Letter from the COMMISSIONERS OF ENQUIRY to
EARL BATHURST.*

CAPE TOWN, 2nd June 1824.

MY LORD,—We have had the honor to receive your Lordship's Despatches under date the 27th and 28th December last, communicating the instructions of your Lordship that we should investigate the charges that have been made in the affidavits of Mr. William Parker enclosed in your Lordship's Despatch, against Colonel Bird the Secretary to this Government, and against the local Government itself.

Having returned to Cape Town we have considered it our first duty to act in obedience to your Lordship's commands to investigate the charge preferred against His Excellency the Governor by Mr. D'Escury, and having in an interview with this Gentleman obtained his distinct and decided disavowal of any intention to impute a corrupt motive to His Excellency in making the grant of land to Mr. Redelinghuis, we suggested to Mr. D'Escury as a preliminary step, that he should state this declaration in writing for your Lordship's early information, but we abstained from holding out to him any expectation that his disavowal would supersede the necessity of prosecuting the inquiry that your Lordship had directed into the grounds of the charge which his statement was considered to have conveyed, and we had yesterday the honor of informing His Excellency the Governor of our intention to

proceed with the investigation and which we propose to commence this day by the examination of Mr. D'Escury.

In a letter that he has addressed to us he has continued to disclaim in strong terms the intention of conveying so gross an imputation against the honor of the Governor, but he has not in the same distinct terms declared the grounds upon which he ventured to assert to your Lordship what had been the popular belief on the subject, and on which it will now become our duty to interrogate him.

In the course that we have thus deliberately decided to adopt we trust that we shall be honoured with your Lordship's approval.

We have intimated to Colonel Bird our intention of proceeding with the investigation of Mr. Parker's charges against him at an early date, and in the meantime of furnishing him with such a statement of them as will enable him to prepare the documentary evidence he may wish to bring forward.

We take this opportunity of informing your Lordship that the Governor having considered the claims of the Emigrant British Settlers to demand an early and special investigation with a view to their effectual adjustment, and being ourselves of opinion that any further suspense would be ruinous to many who still adhere to their locations, we have considered it to be our duty (under the instructions of your Lordship that we should communicate unreservedly with His Excellency on the statements contained in the Memorial) to furnish him with such information as would enable him to direct the attention of the officer deputed to this service to the most important and urgent interests of the Settlers. We trust that the appointment in question will be the means of affording them present relief, and when we have had an opportunity of communicating further with the Governor upon the result of our recent inquiries upon the spot, we shall be prepared at once to state to your Lordship our opinion of the grounds of the complaints they have preferred, and of the hopes of ultimate success that they may reasonably indulge. We have &c.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

[Copy.]

Extracts from "a Statement of some particulars connected with the history of the Press in South Africa," addressed by Mr. Thomas Pringle to His Majesty's Commissioners of Inquiry on the 2nd June 1824.

"On the 13th of May a Messenger from the Fiscal called upon me, requesting my immediate attendance at his office. But having fortunately taken notes of what occurred at this interview as soon as it was over, I shall insert them verbatim.

"May 13, 10 o'clock P.M.

"His Majesty's Fiscal sent for me to attend at his Office about $\frac{1}{2}$ past 11. I went over immediately. He introduced the conversation by referring to the second number of the *South African Journal*, which lay upon his Table; and stated that he was authorized to warn me in his official capacity respecting various remarks, affecting as he conceived, the administration and policy of the Colonial Government which had appeared in that number of the *Journal*, especially in the article upon the Present State and Prospects of the English Emigrants.

He then turned up our Advertisement of the *Journal* in the *Cape Gazette* of December 20th 1823, (which he termed our Prospectus), and after reading it, stated that His Excellency the Governor conceived that the Editors had entirely departed from the terms of their Prospectus in various observations and statements in the above article, some of which he read to me, and allowed me to look at others marked in the margin with pencil. (The following are some of the passages objected to). Vide Note at the end of this Statement, marked A.

The Fiscal said that these and many other passages in the *Journal* were very *obnoxious* to Government, and that he was instructed to warn me that unless I solemnly pledged myself that nothing of a similar description should hereafter occur, that the Work would not be allowed to go on. He added, that if these Passages had been noticed *while the work was in the Press*, the Second number should not have been permitted to appear in its present shape.

He further stated that he considered several of the quotations and remarks in the article on the Work of the "Civil Servant," and in Mr. Colebrooke's note on the Settlers, as highly objectionable, and as having a tendency, when circulated in this Colony, to render the People dissatisfied, and disaffected to the Government. He did not however point out the particular passages considered most objectionable in these articles.

The Fiscal also referred to the following Paragraph in our Review of Mr. Bigge's Report on New South Wales, which he conceived to be an "*improper allusion*," but on my expressing my astonishment at any objection being made to it, he candidly owned that it was not Lord Charles, but himself who had marked out *this passage*: "The Governor of New South Wales and Van Diemen's Land is not authorized to impose Taxes, or we may be allowed to suppose, without attributing anything to Colonel Macquarie *beyond the weakness common to almost all men in power*, that he would have discovered many new Sources of Revenue, and long before it became the subject of Mr. Bigge's Report, without meaning to do it any harm, would have found pretexts enough for crippling the growing energies of the Colony."

In reply to these, and similar Remarks, I observed that the "Prospectus" of the *Journal* acknowledged by the Editors was the one published by Mr. Fairbairn, and one in the *Cape Gazette* of January 24, 1824, and afterwards prefixed to the first number.

But without entering into any debate on that point, or declining to maintain the terms of our Advertisement of December 20, I inquired by what authority he called me to account on the subject, or demanded a pledge respecting the future management of the work. The Fiscal replied that he was duly authorized and instructed to interfere, and that I was to consider this as an *official communication from the Government*. I asked if he would furnish me with a written document to that effect. He said no, it was not the practice of his office. I enquired whether he was instructed to furnish any more precise Regulations to limit the exercise of our Editorial discretion, in respect either to the subjects to be discussed, or the mode of treating them. He said we were

merely required to adhere *strictly* to the Terms of our original Prospectus. I said that was rather a vague Document to be judicially tried by ; but supposing us ever so willingly to be regulated by it, who was to be the judge or umpire in case we might, in spite of our best endeavours, be supposed by the Government to transgress its limits ? He replied " of course the Government itself," but added that the exercise of a due prudence and discretion would easily enable us to avoid offensive or questionable topics.

I said I was convinced of the contrary, and that my conviction was fully confirmed by the conversation I had now had with him. That without entering into further discussion of the passages pointed out as *obnoxious* in our second number, I saw very clearly that it would be quite impossible for the Colonial Government and the Editors ever to accord respecting the interpretation of our own Prospectus, much less respecting the right of constant control and interference now assumed by the Fiscal. Unless therefore he would take upon him to point out to us distinctly the limitations imposed upon the Press by the Laws of the Colony, if any such limitations existed, or else obtain from His Excellency the Governor a precise statement of the extent of liberty allowed to us by the instructions of the Home Government, I did not see how we could proceed further with the publication with either satisfaction or safety.

The Fiscal replied, that we had not yet here the freedom of the Press, nor was the Colony yet fit to enjoy it. That we were moreover regulated by the Dutch and not by the English Laws, and that the former was far from allowing an unrestricted Press. In regard to the Governor, he did not think His Excellency would allow us any such Statement as I spoke of. His Lordship's Instructions from the Home Government were for the regulation of his own conduct, and not for that of others.

As that was the case, I said I should like to know the *Law* on the subject, Laws being intended for the regulation both of the Governors and governed, and if the Dutch Law was our rule, I should wish much to see it, or to know where to find it. To this I received no satisfactory reply.

The Fiscal then requested a decisive answer to his former demand, namely, whether I was willing to pledge myself to

adhere strictly to my original Prospectus and admit nothing *obnoxious* to Government, or not.

I said I would give him my answer in writing. He said he would enter into no written correspondence on the subject, but had no objection to receive an answer in writing addressed to him officially. He added civilly, that I might consult with my friends, and take sufficient time to consider of my answer, which he hoped would be an amicable and satisfactory one.

I observed that whatever were the Law, or whoever was the Umpire, if our writings were to be judged not by their general tone and tenor, but by insulated phrases, words, and sentences, culled out, and misinterpreted in a spirit of jealous and vexatious interference, it was quite out of the question for us to think of continuing the work, and that our only course was to lay it aside until more safe and liberal times; and that with the immediate example before our eyes of the Publisher of a contemporary work ruined and sent out of the Colony without trial or investigation, I considered it highly dangerous for any man of principle or independent feelings to risk the publication of anything whatever in South Africa.

So closed our conference; and I willingly take occasion to remark that throughout the whole of this interview, Mr. Denysen conducted himself with perfect civility and politeness, and repeatedly expressed his concern that it fell to his lot in the exercise of his official duty to interfere with our publication.

Next day in conjunction with my fellow Editor, I transmitted to the Fiscal the following note:

Cape Town, May 14th 1824.

SIR,—In consequence of your official communication of yesterday respecting the *South African Journal*, we think it inconsistent with our personal safety to continue that publication. We remain &c.

(Signed) THOMAS PRINGLE,
JOHN FAIRBAIRN.

A.

Passages considered obnoxious.

If no Projector had been allowed to interfere. If the £50,000 voted by Parliament had been employed, as seems to have been the original intention of His Majesty's Ministers, merely in defraying the expense of the Emigrants; If the Colonial Government had placed them at once in every respect on a footing with the other Inhabitants of the Colony. If they had met with the encouragements usually given to agriculturists here, the Heads of Parties, and every one who possessed means in any shape, to the extent of two or three hundred Pounds, or even less, would have obtained grants of from Four to Six thousand acres of Land. And if the Sums deposited by them as Security for their embarkation and their eventual Settlement in the Colony or in that District, had been returned to them as stipulated, to employ as they chose themselves, instead of being retained without their consent, to be *injudiciously expended on their account by Government*. If a more *efficient system of defence* had been constantly maintained to secure them from the incessant harassment, and ruinous depredations of the Caffres; and particularly if the *Local Magistrates had been from the beginning men of popular talents and experience* in civil affairs, instead of a succession of Persons accustomed only to *despotic rule*; and if their grants had been extended gradually as their means increased, many of them would have succeeded in spite of Rust, Drought and Deluges, as Graziers; and others as cultivators of green Forage and vegetables for the supply of Graham's Town, and the Frontier Posts; provided the Military had been prohibited from competing with them at all, or on unequal terms.

But as it was, it was *impossible that they could prosper*; and it will be found that there is not one exception to the failure of those who *adhered closely to the means pointed out by Government*.

It must be clear, that without *entire change of system*, they could not be expected to compete on equal terms with the old Colonists, who had been reared under the accumulated *disadvantages of the System* which is established.

The Occupiers of Lands at the Cape are all weighed down either by Taxes and restrictive Regulations, or the want of demand for their produce caused in a great measure by the latter.

Hottentot labour, is generally speaking, hired at a rate much below its real comparative value, a consequence of the *very injurious restrictions* which that race have had to contend with. This circumstance along with the higher rate of profit derived from the breeding of stock, account for the superior success of the graziers in spite of a limited Market, the *useless and oppressive restrictions* on the internal Commerce of the Colony, and the monopolizing Regulations of the Burgher Senate.

Nor does it appear that he could have had any reasonable prospect of competing on equal terms with the other Colonists, unless by the abolition of many of the restrictions and burdens of the Dutch System, he had been enabled to introduce the more favourable one to which he had been accustomed from his youth. Had matters fallen into this train, in place of the *Emigrants being bound like Serfs to their Locations by absurd Regulations* (whether originating with the Home or the Colonial Government is immaterial) it is not saying too much to suppose that the industrious Mechanics and Labourers would have accumulated considerable sums by this time; and that many of the others would have been in equally favorable circumstances with the Boors. An arbitrary system of Government and its natural consequence, *abuse of power by local Functionaries, Monopolies, Restrictions &c. The vacillating and inefficient system pursued in regard to the Caffres.* Capital and free Government are essential to the success of Colonization. The constant exposure of the Settlers to Caffre Incursions, was, we conceive, the next cause *most ruinous to the Settlement*; not so much from the actual damage sustained, as from the continual state of alarm and insecurity in which they were placed. The Officers and Troops on the Frontier probably did their best; but if the *system of defence was fundamentally an erroneous and inefficient one*, as we conceive it to have been, their utmost exertions could not have protected their unfortunate Countrymen.

[Copy.]

*Letter from MR. D. P. FRANCIS to the COMMISSIONERS OF
ENQUIRY.*

CAPE TOWN, 2nd June 1824.

GENTLEMEN,—In your letter to me dated Graham's Town the 9th of February last, it is stated that after the inquiry you have lately made in my case, as set forth in my statement of the 28th July last, you find ample reasons for having declined to furnish me with any written document to the Colonial Office in England, until your investigations should be closed.

In reference to the statement I had the honor of presenting to you of the above date, I beg leave to observe that as the Copy of that Statement went home with Mrs. Francis with other papers, I have not had the opportunity of referring to it, therefore I restrict myself to answer such remarks as Major Colebrooke made on the case in the conversation I had the honor to have with him on the 13th ulto.

In respect to the Clanwilliam affair Major Colebrooke remarked that I had not been located there myself.

In answer to this remark I think you will find in my statement that I *did* go there with Mr. Parker previous to sending the people from Saldanha Bay, and that I sent those people belonging to me to that location, to comply with the orders of Government, and I trust the result of that location will justify me in the line of conduct I adopted on that occasion, as it would have taken eight waggons at least for my baggage instead of one which answered the purpose, and nothing could equal the folly of such an expedition except the absurdity of attempting to settle so many families in such a situation.

Another remark of Major Colebrooke's was that some of the settlers in the Zuureveldt had conceived that the Clanwilliam people have had a preference by receiving rations gratis. A Copy of the Circular (dated in July 1820 I believe, Gentlemen, is in your hands) for removing the parties from Clanwilliam and supplying them with rations, in consequence of their having lost the season for ploughing, and the consequent uncertainty of provisions for the next season was the cause of this arrangement, and I must confess I think this very

inadequate to the loss of time and expenses incurred from the beginning of May until the middle of October, the time we arrived in the Zuureveldt (at Clanwilliam no rations were issued).

It appears also that some of my men have made remarks to Major Colebrooke upon the distribution of these rations to them. I can only declare that it is the first word of dissatisfaction I have ever heard on the subject, the rations were allowed to me as a part remuneration for the loss of time and disappointment at Clanwilliam, my servants never having suffered in any way by that expedition, and these rations I not only issued to my men as articulated Servants, according to my agreement with them, but I always gave them more than the stipulated quantity.

Major Colebrooke also informed me that these men stated I had an overplus from these Rations when I left the place; that there were a few sheep left which I received as rations is true, but I doubt if these people informed Major Colebrooke of the Cattle I slaughtered in lieu of those sheep so left, or the quantity of rice and meal I purchased independent of the rations I received. These men were all paid according to the agreement I made with them in England, some at 2s. 6d. per day and some at 1s. and a Soldier's ration, but I am convinced they at all times received one third more than that quantity, particularly of meat. On my leaving the place I gave them about 20 goats and sheep and three cows and calves. It has also been stated that I received a sum of money from some of them to allow them to work for themselves with other masters, this was their own proposition, and a part of which I only deducted from their wages; this was nothing adequate to the expence and money which I advanced them prior to their leaving England, and it was upon this ground I made this arrangement with them.

Major Colebrooke's conversation and remarks seemed also to imply that I had turned my attention to the conveying of stores from Algoa Bay to the Frontier instead of paying attention to my location. It is true that after the Sowing Season I did go and send my waggons several times, but on two occasions without procuring any Loads, once after being absent ten days, and at another time fourteen or fifteen days. These waggons and oxen cost me upwards of 2000 Rixdollars,

and after the conveyance of these stores was let by contract, they did not fetch me half that sum when sold, so depreciated was this kind of property.

With respect to what I had done on the place I beg to refer you to Mr. Dyason's return in 1822, and I think you will find by that return that I had about fourteen Acres of Land under Cultivation and about 90 head of Cattle on the place, besides Goats and Sheep.

Another remark Major Colebrooke made was my having charged Major Somerset with neglect in respect to locating me, as mentioned in my Statement.

I do conceive that it was the duty of Major Somerset either to have answered my Letter, on my first arrival in the Zuureveldt, or have sent someone to me if he was too much engaged to attend himself, and not have delayed taking any notice of me for three months.

Major Somerset might have been much engaged I admit, but it must be recollected that the bustle of locating the Settlers generally was over many weeks before I arrived there.

In reference to leaving my location, and my motives for doing so, I have stated very fully to you, Gentlemen, and if you should be of opinion that I have no cause of complaint for what has occurred to me in this Colony, I shall submit so far to that opinion as to refrain from expressing any sentiments of my own upon the subject.

As I expect to arrange my affairs in this place finally to-morrow, I shall leave the Colony as soon after as possible.

I have &c.

(Signed) D. P. FRANCIS.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, *June 3rd 1824.*

MY DEAR LORD,—I received Your Lordship's letter of the 13th of March (private and confidential) yesterday Evening

and at the same time Your Dispatch conveying to me Your Lordship's decision relative to Lt. Col. Bird.

I cannot but feel under considerable Obligation to Your Lordship for this Mark of Your Support of my Authority here.

I propose to appoint Mr. Brink (the Asst. Secy.) to act as Secretary until the arrival of the Gentleman Your Lordship shall send out, who I shall anxiously expect and to whom Your Lordship may be assured, I will pay every Attention and afford every Assistance. The Asst. Secretaryship will be filled by the Senior Clerk in the Office.

I this morning communicated the Event to the Chief Justice in a private Note, whose Answer, coming as it does from a Man of the most respectable and upright Character, will evince to Your Lordship that I have not been actuated by any personal or unworthy motives. I therefore take the Liberty of enclosing a Copy of it.

I have now only to assure Your Lordship that I entertain no acrimonious feelings towards Colonel Bird. His removal, with a view of the public Interests, was indispensable, but should he solicit a Provision in consideration of his long Services, it will afford me Satisfaction, on account of his Family, to hear that Your Lordship has recommended his prayer to His Majesty. I trust however that Your Lordship will pardon my suggesting that a Condition should be attached to any grant of that nature, rendering it forfeit if He meddles with the Affairs of this Government. This will be necessary, as may regard myself, my Successors or the Interests of the Colony. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure in the above.]

CAMP GROUND, *June 3rd 1824.*

MY DEAR LORD,—Never could His Majesty have conferr'd a more serious mark of his paternal affection upon this Colony.

I am sorry for those who suffer in consequence of Colonel Bird's removal, but as to himself he is the Cause of his own fall by contriving that of Your Lordship.

The Face of things will undergo a remarkable Change, and thank God, Harmony will revive. I have &c.

(Signed) J. A. TRUTER.

To His Excellency Lord Charles Somerset.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, *June 5th 1824.*

MY LORD,—I have the Honor to transmit to Your Lordship a Letter I have this moment received from Mr. Brink (acting Colonial Secretary) transmitting one from Lt. Colonel Bird, which I do myself the Honor to forward to Your Lordship.

I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Original.]

Letter from P. G. BRINK, ESQRE., to LORD CHARLES SOMERSET.

Saturday, 5 June 1824.

MY LORD,—I have this instant received the accompanying Letter from Colonel Bird, which I take the liberty of recommending to Your Lordship's favorable consideration.

I remain &c.

(Signed) P. G. BRINK

[Original.]

Letter from LIEUTENANT COLONEL BIRD to P. G. BRINK, ESQRE.

CAPE TOWN, 5th June 1824.

MY DEAR SIR,—Be so good as to represent to His Excellency the Governor that I have borne the fatal communication which you made to me on Thursday with as much fortitude and resignation as I could muster consistently with the feelings excited by the thought that the decision involved in inextricable ruin a wife, nine children, and five sisters all totally dependent on me. The thought and indeed intimate persuasion which I feel that it cannot be the intention of His Excellency or of His Majesty's Government always hitherto liberal, that after upwards of 30 years arduous Service (it is 29 years since I was appointed with the present Sir H. Taylor Commissioner on the part of the British Government to the Royalist Army in La Vendee) I should in my old age and a cripple be cast upon the world penniless and without any provision whatever, induces me to request you will move His Excellency to take this case into early consideration with the view of allowing me a competent pension for my support in my retirement. I have been 17 years in the room you now occupy and you know and His Excellency knows the zeal, diligence, and integrity which have guided me in the performance of duties often unpleasant always arduous. Be pleased to submit to His Excellency that the present representation is not meant in the shape of a murmur but that want compels it. I had anticipated and was in some measure prepared for the blow by the receipt by last mail of a Copy of a letter from Lord Grenville to my brother which contained Lord Bathurst's views and decision on my case, so that I had little hope it could be otherwise.

Be pleased also to recall to His Excellency's recollection that when General Meade was removed from the Civil Service of this Government at six months pay was allowed him to defray the expense of his return to Europe and I have no doubt His Excellency will see the justice of acceding to my request to receive that customary allowance. I remain &c.

(Signed) C. BIRD.

[Original.]

*Letter from the COMMISSIONERS OF ENQUIRY to
EARL BATHURST.*

CAPE TOWN, 5 June 1824.

MY LORD,—The accompanying memorials having been presented to us by Mr. Wm. Hart, setting forth his distressed situation out of the disappointment and losses he has sustained as an Emigrant Settler, and stating his inability either to return to his Family in England, or to provide the means of enabling them to rejoin him in South Africa, we are induced to think that your Lordship will approve of our transmitting them, in the expectation that circumstances may admit of your Lordship's acceding to his wish, that his family may be provided with a passage to the Cape at the public expense.

From the enquiries we have made respecting Mr. Hart, and the testimonials we have seen in his favor by General White, we have reason to believe, that his present situation is one of great distress, and that his character as an officer in His Majesty's Service was respectable.

We propose to instruct Mr. Hart to direct his family to address their application to the Colonial Office, as he has omitted to furnish us with their address. We have &c.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

[Copy.]

Letter from MR. JOHN GREGORY to MR. D. P. FRANCIS.

CAPE TOWN, 5th June 1824.

SIR,—I am directed by the Commissioners of Inquiry to acknowledge the receipt of your Letter dated 2nd Instant upon the subject of your Location in the District of Albany, and in adverting to the recent appointment of a Commissioner for adjusting the claims of the British Settlers, I am instructed to inform you that unless you submit to that Officer your

claim to the Location, or empower some one in the Colony to do so in your behalf, there is every probability that he will regard the Location as one that has been abandoned.

I have &c.

(Signed) JOHN GREGORY.

[Copy.]

Letter from P. G. BRINK, ESQRE., to the FISCAL.

CAPE TOWN, 6 June 1824.

SIR,—I have it in command from His Excellency the Governor to acknowledge the receipt of your letter of yesterday's date, stating that there is some suspicion of an infamous Placard which was posted up on Tuesday last being in the possession of *Daniel Lee* Servant to Mr. Wm. Edwards, and therefore requesting His Excellency's warrant for searching the House in which the said Lee lives, as well as any other house with which he stands connected, and I am to convey to you His Excellency's authority for the proposed search accordingly. I have &c.

(Signed) P. G. BRINK.

[Copy.]

Letter from the Chief Justice to the Acting Colonial Secretary.

CAMP GROUND, June 7, 1824.

SIR,—In reply to your letter of the 28th Ultimo enclosing Copy of a Memorial from several Merchants and Traders in Cape Town interested in the Sale of Drugs and Patent Medicines, representing the injury which they suffer under the provision of the 5th Clause of the Proclamation of the 26th September 1823 for the regulation of the Medical Practice, together with a copy of a Report from the Colonial Medical Inspector, for

my opinion thereon : I beg leave to say for the information of His Excellency the Governor that the prohibition of the sale of all articles injurious to the health of Individuals in Society rests upon incontestible principles of justice. Not only Medicines, but other things of daily consumption, for instance Bread, Coffee, &c., are liable to become obnoxious by being spoiled.

Therefore the ordering of an examination previous to revending Patent Medicines is a regular provision which suffers no contradiction. But as in all restrictive Laws, so also in this, the provision ought not to exceed the necessity of the measure. And therefore in the present case it is to be considered whether the 5th article of the Proclamation of the 26th September last has curtailed more commercial Liberty in selling Patent Medicines than the object in view demanded ? In reply to which I beg leave to submit, that if Patent Medicines and those called Halsche, when in an unspoiled state, are once admitted as not injurious, and consequently vendible, there seems to be no further necessity for the Legislator than to ascertain that they are not spoiled, and this being ascertained to subject the vender only to a penalty in case he should be found to have vended either by wholesale or in retail any spoiled Patent or Halsche Medicines.

As to the mode of examination the difficulty of Memorialists seems in my humble opinion obviated by the process pointed out by Dr. Barry, viz. the referring of the matter in case of doubt, on the part of the Merchants, to a competent Board.

A material restriction on vending Patent and Halsche Medicines would appear to me to be that the retail should be limited to the Flask, Box, or other Vessel, in which those Medicines have been imported.

It is entirely out of my way to enter into the particulars stated by Dr. Barry with respect to the vending of Medicines in the Country Districts, but as an Individual Member of Society, and a Magistrate, I must take the liberty to observe that it is impossible to restrict the vending of Medicines in the Country Districts to regular Apothecaries, without exposing the Community there to material Injury. The distance from Towns and Villages where only Apothecaries' shops are established, and the want of means with the poorer Class who are

assisted gratis by their wealthier neighbours, strongly claim a liberation from that restraint which may justly be laid on the Inhabitants of Towns and Villages, provided the Medicines be bought by the vender from some regular Apothecary's Shop, or with respect to Patent and Halsche Medicines, from a Merchant after due examination.

Our present Condition does not admit of more restrictions, even relative to Medical Practitioners at some distance from Towns and Villages, where the Medical Assistance cannot be restricted to Licensed Physicians or Surgeons.

The Cases of Maladies might perhaps be circumscribed, but general prohibition in parts at some distance would, as it did in the reign of Henry VIII, likely cause many of the King's subjects to perish for want of help.

In addition to which it seems no immaterial observation that practicability is required as well in Legislation as in all other public matters. I have &c.

(Signed) J. A. TRUTER.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 11th June 1824.

MY LORD,—I transmit to your Lordship herewith enclosed a correspondence which I have had with the Count Munster respecting the claim of the Reverend Mr. Hesse to the reimbursement of the expences incurred by him in effecting his return to Europe; and in conformity with the assurance which I have conveyed to the Count Munster, I have to desire that your Lordship will report to me the amount of the allowance which it might be proper to make to the Reverend Mr. Hesse in reimbursement of the expences of his passage.

I have &c.

(Signed) BATHURST.

[Copy.]

Letter from MR. THOMAS PRINGLE to the FISCAL.

HARRINGTON HOUSE, CAPE TOWN, June 11, 1824.

SIR,—In consequence of being confidentially informed that a warrant from the Governor or the Court of Justice to seize or examine my papers was in your possession, I called at your office this morning to inquire if such was the case. The answer I received was so far from satisfactory that I feel it incumbent on me to address you on the subject in writing.

I now request to be officially informed whether or not such a warrant has been granted against me? If so, upon what grounds? If it still exists? If it is to continue hanging thus *in terrorem*? And whether you will inform me if it is to be executed or not?

Now, Sir, as I presume that you as an official servant of the British Government must act *according to law* and upon your *own responsibility to law*, I conceive I have a claim to demand of you an explicit answer to these questions, or at least to such of them as your official duty *authorises* you to answer.

I take occasion to state that I am informed that no search warrant of the nature referred to can be lawfully issued except upon *information upon oath* against an individual, and as I am conscious that no such information could be justly given respecting me, I am resolved not to submit to this brand of public suspicion without calling to strict account the *evidence* or *authority* which has occasioned it.

I have further to add that the extremely precarious state of my wife's health renders the apprehension even of such an intrusion upon my domestic peace and privacy not merely annoying in the highest degree, but in her situation dangerous even to extremity.

Should therefore any fatal or calamitous result ensue (which I cannot calmly contemplate) I must know where to look for *redress*, if such a feeble term can express the results of *Justice*.

But Sir, to evince my anxiety to court enquiry and to defy accusation, I beg to say that I am quite ready to submit my papers to the inspection of any impartial and honorable man, provided a distinct and sufficient *cause* can be shewn for such

inspection, for you cannot be ignorant that no British subject will submit to such indignity upon light or trivial grounds, or without claiming in return full and immediate redress if found innocent. Requesting the favour of an early reply,

I have &c.

(Signed) THOS. PRINGLE.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 12th June 1824.

MY LORD,—I transmit to your Lordship herewith enclosed a copy of a note which has been presented to His Majesty's Secretary of State for Foreign Affairs by the Prussian Minister resident at this Court claiming on behalf of a Minor a subject of His Prussian Majesty a sum of money which is stated to be now in the custody of the Weeskamer at the Cape of Good Hope, and as the Prussian Government have undertaken to furnish in due time a receipt from the Court of Justice at Berlin on behalf of the Minor for the sum in question, I have to desire that your Lordship will cause the amount thereof to be remitted to the Colonial Agent who will receive instructions for the disposal of it. I have &c.

(Signed) BATHURST.

[Original.]

Letter from GEORGE HARRISON, ESQRE., *to*
R. WILMOT HORTON, ESQRE.

TREASURY CHAMBERS, 12th June 1824.

SIR,—Having laid before the Lords Commissioners of His Majesty's Treasury your letter of the 1st April last, enclosing Copy of a Dispatch from Lord Charles Somerset requesting

instructions for his guidance with respect to the Security required by the standing regulations of his Lordship's Government from the Collector of Customs for the faithful discharge of the trust reposed in that officer : I am commanded to acquaint you that My Lords entirely concur in opinion with Lord Charles Somerset as to the propriety and expediency of requiring security from all officers appointed to Situations of pecuniary Trust in the Colonies, and My Lords are of opinion that all Persons who may be hereafter appointed at home to situations of this description should be required to give security here previously to their leaving this Country as was done in the case of the recent appointment of the Treasurer of the Mauritius ; and also that all Officers now holding offices of this description in any of the Colonies who may not have given Security should be called upon to do so ; but as it might be difficult for Individuals so circumstanced to find Persons in the Colonies in which they may be resident, who would be willing to become Security for them that a sufficient time should in every such case be allowed to them to apply to their Friends in the United Kingdom for that purpose. And I am to acquaint you further that My Lords will direct the Commissioners of Colonial Audit to report to them all the Persons holding situations of pecuniary Trust in the several Colonies under their cognizance, and also their opinion as to the Amount of the security which it may be proper to require from each officer with reference to the extent of his pecuniary Trust, in order that their Lordships in communication with Lord Bathurst may devise and establish some general regulations on this subject. I am, &c.

(Signed) GEO. HARRISON.

[Copy.]

Letter from the FISCAL to MR. THOMAS PRINGLE.

FISCAL'S OFFICE, 12th June 1824.

SIR,—In reply to your note of yesterday I beg leave to state that I cannot but refer you to the verbal answer I have given

to the questions which you thought proper to put to me yesterday morning.

Whoever be your confidential informer I think that he is answerable for the information he has given you, and I therefore felt it incumbent to require your judicial evidence on this subject. I have &c.

(Signed) D. DENYSSEN, Fiscal.

[Copy.]

*Records held before WALTER BENTINCK, ESQRE., LL.D., Sitting
Commissioner of the Worshipful the Court of Justice.*

On Saturday the 12th June 1824.

D. Denyssen, Esqre., His Majesty's Fiscal, and Thomas Pringle having appeared before the Sitting Commissioner aforesaid, the Fiscal in exhibiting a letter addressed to him by said Pringle, stated, that in the beginning of the said letter it is communicated to him that he the said Pringle had been confidentially informed that he was in the possession of a warrant from the Governor or the Court of Justice, to seize and search his papers.

That as similar informations of cases, should they exist, ought to remain secret, from its nature, and therefore can only originate from a foul channel, and subject the author to his prosecution, he had therefore deemed it his duty to cause the said Pringle to appear, for the purpose of stating the name of his informer.

The said Pringle hereupon, after having been made acquainted with the Fiscal's introduction, made Oath and stated that he was a native of Scotland, and replied to the queries put to him by His Majesty's Fiscal as follows :

1. Who is the confidential informer you received the information of alluded to in your letter now produced ?

Reply. In the first place I wish to state previously, that I met many people in the streets some days ago who stated to me that it was reported as a rumour that my Papers are either to be searched, or were to be searched in consequence of a legal warrant. (This conversation I don't give as con-

fidential). Now I wish clearly to understand, whether I am to give the names of those who stated the same to me.

His Majesty's Fiscal[•] hereupon stated that he, under the present circumstances, insisted that the appearer should state the name of and identity of the person who had communicated these circumstances.

On which the said Pringle stated :

The Court will see that I am in a very unfavorable dilemma, and unless I am forced to mention the name of the person who told it to me, I shall not do so. Besides I should much like to know the means of compelling me to mention a thing, in case of my refusing to do so.

On which the Fiscal observed to him that in case he persisted in not stating the name of the person who had communicated the same to him, he would be forced to do so by compulsory means.

Said Pringle having hereupon asked the Fiscal to know, in what those compulsory means consisted, the Fiscal informed him that he would be compelled thereto by a Judicial Decree of Civil imprisonment. (Gyseling).

Said Pringle then stated : The nature of the information the person gave led that a legal warrant was in the hands of His Majesty's Fiscal to search my Papers. I told the Gentleman previously that I heard such report, and this Gentleman told me, he believed or guessed, that such a warrant did exist and advised me to see the Fiscal and ascertain it, which I followed.

The Fiscal's answer to my Interrogation appeared to be so equivocal, as to affirm my opinion that such a warrant did exist.

The reason why I thought so was, because I considered it the duty of a Magistrate to have the minds of persons in such apprehensions relieved, by distinctly denying its existence.

The individual who gave me the information is *A. Johnstone Jardine*, and he gave it on these terms, wishing me to ascertain whether it be true or not.

Of all which this record has been kept.

Done at the Cape of Good Hope, die et anno ut supra.

(Signed) W. BENTINCK.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 13th June 1824.

No. 72, 2nd February

,, 73, 24th ,,

,, 74, ,, ,,

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's dispatches of the numbers and dates noted in the margin.

Your Lordship has not been mistaken in anticipating my sanction of your Proclamation of the 30th of January last which you had issued for the purpose of introducing the immediate use of the English Language into the inferior Courts of the District of Albany; and I have only to congratulate you on having already accomplished this important measure in a district where its beneficial effects cannot fail to be duly appreciated.

With respect to the proposal contained in your Lordship's dispatch No. 73 for encreasing the Salary of the Secretary to the district of Stellenbosch, I have to acquaint your Lordship that although I am disposed to concur in the expediency of making some addition to the Salary of that Officer, yet I have to desire that such addition may not exceed what may be borne by the District, so as to avoid the necessity of having recourse to the Colonial Treasury.

I have communicated to the Commissioners for auditing Colonial Accounts my sanction to the expenditure of 3400 Rix Dollars which has been incurred by your Lordship in constructing boats for service at the Kowie River.

I have &c.

(Signed) BATHURST.

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Office Copy.]

Rep.

I met *per* from EARL BATHURST *to* LORD CHARLES SOMERSET.

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DOWNING STREET, LONDON, 14th June 1824.

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MY LORD,—As much inconvenience is felt at times want of good Maps to exhibit the Territorial divisions

of the Settlements under your Lordship's Government and other local points of immediate interest which continually arise out of the correspondence of my office, I have to request that you will make arrangements for furnishing me with such maps already in your possession as may obviate the inconvenience which I have pointed out ; and as I understand that a survey of the Frontier districts has for some time past been executing under your directions, you will be the better enabled to comply with my wishes upon the subject.

Independently, however, of any maps upon an extensive Scale which you may find it necessary to transmit to me, I should wish you to attach to the annual Blue Book a series of District Maps upon a small scale, accompanied by a skeleton Map shewing their relative positions. I have &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 14th June 1824.

MY LORD,—I have the honor to transmit to your Lordship copies of a letter and of its enclosure which my Under Secretary of State has received from the Foreign Office requesting information respecting a sum of money which was left by Mr. Obermeyr who died at the Cape of Good Hope in the year 1819 and I have to request that your Lordship will afford me the necessary information as will enable me to return a due answer to Mr. Secretary Canning upon the Subject. I have &c.

(Signed) BATHURST

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 14th June 1824.

MY LORD,—It having been deemed necessary to recommend the Establishment of an additional District, under the Title of the District of Albany, in consequence of the large Encrease of Population in that Quarter, and the same having been sanctioned by your Lordship, I have the Honor to state that the Erection of Buildings for the Establishment thereof was a measure of primary necessity, and I beg to assure Your Lordship that the utmost Economy has been observed in entering into the respective Contracts for the requisite Buildings. The Amount of which are as follows :

For a Residence for the Chief Magistrate Twenty-five Thousand Rixdollars, for a Prison, with accommodation for the requisite officers thereof, Seventy Thousand Rixdollars, and for the Erection of a Church (toward which Five Hundred Pounds Sterling has been already received by Mr. Courtenay from the Church Missionary Society) Fifty-three Thousand Seven hundred and Seventy Rixdollars. I have the Honor to solicit your Lordship's Sanction to the above items of Expenditure and that Your Lordship will be pleased to cause the same to be notified to the Auditors of Colonial Accounts.

I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Original.]

1. *Letter from LORD CHARLES SOMERSET to EARL BATHURST.*

CAPE OF GOOD HOPE, 14th June 1824.

Rep. LORD,—With reference to the Despatch I did myself I met f
to me t
either to
of a legal
nor to address to Your Lordship on the 26th April last, transmitting Returns of the Revenue and Expenditure, Establishments, Population, Exports, Imports, Currency, of a legal Colony, for the year 1822, agreeably to the directions

contained in your Lordship's Despatch of the 30th April 1823 I have now the honor to forward to Your Lordship Duplicates thereof. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST.

CAPE OF GOOD HOPE, 14th June 1824.

MY LORD,—I have the Honor to transmit to your Lordship a List of Augmentations in the public Expenditure of this Settlement, which I have found to be so indispensable as to preclude me from previously taking Your Lordship's Pleasure thereon.

The Remarks I have made opposite to the respective Items will, I hope, be entirely satisfactory to Your Lordship, and I trust that Your Lordship will do me the Honor to direct Your sanction of them to be conveyed to the Auditors of Colonial Accounts. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[The new appointments are numerous, but the offices mostly petty, the principal being a Custom Officer at the Knysna with a salary of Rds. 1000 a year. Clerks, schoolmasters, constables, men for the port boat, and small increases of a few salaries make up most of the remainder, the total increase being Rds. 19,003 6 sks.—G. M. T.]

[Original.]

Letter from LORD CHARLES SOMERSET to EARL BATHURST

CAPE OF GOOD HOPE, 15th June 1824

MY LORD,—I do myself the honor to inform Your Lordship that I have ascertained that the Instructions contained in your Lordship's Dispatch to Sir R. S. Donkin of the 20th

1820, directing that none but free Labourers should be employed on the new Grants of Land in Albany and the other Frontier Districts have been on all occasions strictly adhered to. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 15th June 1824.

MY LORD,—I have the honor to transmit to your Lordship a copy of a letter which my Under Secretary of State has received from the Deputy Secretary at War requesting information as to the nature of the Albany Levy and what allowances are received by the Officers serving therein.

I have &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 15th June 1824.

MY LORD,—With reference to your Lordship's dispatch of the 3rd of January last requesting Instructions for your guidance with respect to the security required by the standing Regulations of your Lordship's Government from the Collector and Customs for the faithful discharge of the trust reposed in that Officer; I have now the honor to transmit to your Lordship an Extract of a communication which has been received from the Board of Treasury upon the subject. I have &c.

Rep.

(Signed) BATHURST.

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[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 15th June 1824.

MY LORD,—I have the honor herewith to transmit to your Lordship copies of a letter and of its enclosures which my Under Secretary of State has received from the Foreign Office, and I have to request that your Lordship will in compliance with Mr. Secretary Canning's suggestion report to me the value of the Dutch Ship *Amsterdam* alluded to in the correspondence enclosed. I have &c.

(Signed) BATHURST.

[Office Copy.]

Letter from R. W. HORTON, ESQRE., *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 16th June 1824.

MY LORD,—I am directed by the Earl Bathurst to transmit to your Lordship a copy of a paper containing some suggestions respecting an improved process of making Wine at the Cape of Good Hope, especially in imitation of the Light Bordeaux Wines ; and I am directed to request that your Lordship will take measures for ascertaining and reporting to Earl Bathurst hereafter the utility of the suggestions contained in that paper.

I have &c.

(Signed) R. W. HORTON.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 17th June 1824.

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's Dispatches numbered 90 and 80 under date of the 26th of March last.

I have to convey to your Lordship my approbation of the allowance which you have granted to the Resident at Mossel Bay for House Rent, and of the arrangement which you have made for allowing the Inspector of lands and woods to incur a fixed contingent expenditure on account of stationery, instead of receiving it as heretofore from the Colonial Office.

I have informed the Colonial Auditors that I have sanctioned the expenditure which your Lordship has recommended for the repair of the Public Offices in Cape Town; but I must remind your Lordship that you have omitted to furnish me with the Inspector's Report upon which the necessity of that expenditure is founded. I have &c.

(Signed) BATHURST.

[Copy.]

Evidence given by MR. MARTINUS MELK *to the* COMMISSIONERS OF ENQUIRY.

CAPE TOWN, Monday, 17th June 1824.

Martinus Melk having been duly sworn according to the form of the Dutch Reformed Church replied as follows to the Questions put to him by the Commissioners of Inquiry.

How long have you resided at the Berg river?

Reply. I resided there 6 years, but the place has belonged to me for 16 years.

Is it a place that you find favorable to the breeding of horses?

Reply. Yes, it is. I know of no place so near Cape Town that is so well suited for the breeding of horses.

Do you possess a considerable stock of horses ?

Reply. I do. Sixteen years ago I bought with the estate ten mares that my Father in law Mr. Kirsten sent for from England.

Were those mares thoroughbred ?

Reply. They were, and I also bought from him several other mares half bred.

Had you any English stallion ?

Reply. At the time I bought the mares there were only two good English stallions in the Colony, they belonged to Mr. Van Reenen. Mr. Pringle had a thoroughbred English mare, and out of her by one of the English horses I bought a colt which I have since sold. I also bought a horse from Lord Charles Somerset three years afterwards, who died after three years.

Your stock then derived from this breed is very considerable ?

Reply. I have now 130 mares old and young, two real Blood Horses from England, and an Arab named Sultan.

Did you import these last named horses yourself ?

Reply. No I did not. I exchanged a horse I had named Diabolus for Rhoderick Dhu, with money besides. I got Clinker from a Captain of an Indiaman who was taking him to India. I purchased Sultan from Mr. Laurence Cloete.

Have the goodness to state the prices you paid for these horses ?

Reply. I paid Mr. Van Reenen for the colt named Eclipse 1000 Rds., for Ploughboy whom I purchased from His Excellency Lord Charles Somerset I paid 9000 Rds., for Diabolus whom I purchased from Mr. Hamilton Ross I paid 5260 Rds., for Clinker I paid 5000 Rds., for Rhoderick Dhu I gave Diabolus and 2300 Rds., for Sultan I paid Mr. L. Cloete 1200 Rds.

Will you be so good as to state the terms upon which these purchases were made, whether for ready money or otherwise ?

Reply. The first, Eclipse, for ready money, the second, Ploughboy, was for 6000 Dollars at the end of the first two years and the other three thousand Mr. Proctor undertook to pay in consideration of the horse Hamiltonian that I sold him for that sum. I purchased Diabolus at the ordinary terms of

the vendue sales. I bought Clinker on board the Indiaman for ready money. I agreed to pay Mr. Cloete the price of Sultan (1200 Dollars) at the end of a year.

Allow us to ask whether by these purchases you have gained or lost.

Reply. From the sale of the colts of Eclipse I obtained 5000 dollars. I only had Ploughboy three years, and from his progeny I had colts the produce of which, as standing in my books, was Rds. 40,000 besides 34 mares which now form part of my stock. The colts of Diabolus that I have sold brought me in 8000 dollars, besides which I have still 20 mares. I have sold no colts of Clinker yet, they are only $1\frac{1}{2}$ year old. From Rhoderick Dhu I have as yet no colts, having had him only a year. I have sold no colts of Sultan yet, they are only $1\frac{1}{2}$ year old.

What is the largest price that you recollect to have been given for the purchase of a Horse in this Colony ?

Reply. The largest price I ever heard of was ten thousand Rixdollars.

At what period was that given, and for what Horse ?

Reply. It was given for a "Sorcerer" colt by a man named Louw of the Roggeveld to Lord Charles Somerset. I think this purchase was made about 5 years ago, and about the same time I recollect Mr. Van Reenen of Ganze Kraal gave Captain Christopher the same sum, 10,000 dollars, for a horse named Lutwick which he has now.

Had you an opportunity of seeing either or both of these Horses ?

Reply. Yes I have seen them both.

Which was in your judgment the best of the two ?

Reply. I think the "Sorcerer" colt was the best. I had Ploughboy at the time, otherwise I would have purchased him.

Were the "Sorcerer" colt and Lutwick of the same age ?

Reply. No, Lutwick when he came into the Colony was 12 years old, the other was four.

Have you received any grant of land from Lord C. Somerset since you made your purchase from him ?

Reply. I was one of the first that applied for the confirmation of my land to Sir John Cradock after the issue of his

Proclamation. My land has been surveyed and measured, but hitherto I have not received the title deed.

Of what extent is the Land you prayed for on Quit Rent ?

Reply. I am not able to state this, but I have six places, three at St. Helena Bay and three at the Berg River. Those at St. Helena Bay are only fit for grazing during six months of the year.

Have any of the Horses bred by you been exported ?

Reply. Almost all of them have been sent to India, where they have been much esteemed.

Was it when they were young that you sold your Horses ?

Reply. Generally when they were about 2 or 3 years old. About 6 weeks ago I sold 5 Colts from 2½ years old to 3 for 5000 Dollars.

Is your estate upon which these Horses were bred subject to the Horse Sickness ?

Reply. It never has been.

Have you ever made any purchases of Good Cattle from Europe ?

Reply. A year ago I ordered a heifer and a Bull of the Friesland breed from Holland, and I gave 1400 dollars for them. They are now on my place.

Do you find that the Cattle of the Friesland breed succeed well in this Colony ?

Reply. I think they do. They give the most milk and produce the largest cattle.

Do you find them good for draft ?

Reply. Yes I do.

Have you known any instances in which private Individuals in the Colony have sent to England for blood Horses ?

Reply. No, I am not aware of any.

Did Captain Christopher import the Horses that he bought expressly for this Colony ?

Reply. I don't know whether he did or not, but he sold 6 or 8 here and took 7 or 8 from this Colony to India.

Did you go on board and see these Horses, and if so in what condition were they ?

Reply. They were generally in good condition, but I saw 2 or 3 that were sick.

(Signed) M. MELK.

[Office Copy.]

Letter from R. W. HORTON, ESQRE., to the COMMISSIONERS OF ENQUIRY.

DOWNING STREET, LONDON, 18th June 1824.

MY DEAR COMMISSIONERS,—With reference to the official letter which I addressed to you on the 11th of February last transmitting the evidence which I had given before a Committee of the House of Commons on the subject of Emigration and referring more particularly to the nature of the information communicated to me by Mr. Ingram, I have thought it desirable to place you in possession of the whole of the correspondence which had passed here respecting Mr. Ingram and his project of Emigration, and I therefore transmit to you herewith thirty-three documents in original which will fully apprise you of all the circumstances which led His Majesty's Government to afford him the assistance which he received. I have &c.

(Signed) R. W. HORTON.

[Copy.]

*Letter from the COMMISSIONERS OF ENQUIRY
to LIEUTENANT COLONEL BIRD.*

CAPE TOWN, 18th June 1824.

SIR,—We do ourselves the honor of transmitting a Statement of the charges against you that are contained in two Affidavits by Mr. William Parker and in a Memorial addressed to Earl Bathurst, to the truth of which he has declared on oath.

We beg to add that we are in possession of the correspondence that passed between this Government and the Secretary of State's Office respecting Mr. Parker, so that in adducing evidence on the various points of charge, it will only be necessary that you should furnish us with such further documents as may not have been transmitted to Earl Bathurst, and are not included in the enclosed List of Documents. We have &c.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

[Original.]

Petition of WILLIAM EDWARDS.

To the King's most Excellent Majesty.

The Humble Petition of William Edwards, one of your Majesty's affectionate and loyal subjects,

Most respectfully sheweth :

That hearing his duty to your Majesty had been impeached at the Table of His Excellency the Governor of this Colony, (sanctioned by an approving laugh of Lord Charles Somerset), whilst under the impulse of violent feelings a letter was written to the Governor by a person in your petitioner's house who could imitate his writing with the intention of retaliating the wound which had been inflicted on your petitioner.

That he was taken into custody, confined eight days in a solitary cell prior to his trial, brought into Court, arraigned and tried before two Dutch Judges who were criminated in the very letter of his alleged offence, denied previous to his trial any Consultation with Counsel or friends, refused the use of pen, ink, and paper or the most trifling access, and when actually brought into Court for trial severely reprimanded by one of his judges for attempting to speak with one of the Learned Counsels at the Bar.

That his prosecutor and the Court spoke Dutch, to which (being interpreted) your petitioner replied in English whilst his words were recorded in Dutch by a man as Secretary to Court almost ignorant of the English Language, a want of understanding that led him whilst your petitioner was arguing in his defence to record an hypothesis as an admission of the fact.

That on this inaccurate report the Judges equally ignorant of English condemned your Petitioner and without the production of a single witness sentenced him to be transported to New South Wales for seven years.

That he complained it was not fair to put him on his trial before two persons who were interested in the case as being provoked by his alleged offence, yet they proceeded to try and condemn him.

That he appealed against this decision to the full Court of the Judges in which the same two continued to sit and vote as well as two others whom your petitioner had offended by an impeachment of their integrity and the whole on the incorrect report of the Dutch Secretary confirmed the sentence against your Petitioner altho' he then shewed that his writing had been imitated and offered to prove that the letters were not written or sent by him.

Further that he applied to the Court (including the four Judges his avowed enemies) for permission to be at large on bail until he was banished, owing to rheumatic affections, and shewing it was the Colonial practice from the recent precedent of a man named Mostert banished for life for murdering a Slave, yet for your Petitioner's more horrible crime this was refused.

That he then applied to the Court of appeal of which his prosecutor (the Governor) is the Judge, and his appeal hath been rejected, a solitary instance in your Majesty's dominions of a prosecutor judging his own cause.

That he hath since learnt the incorrectness of the Dutch Scribe's report of his argument and been informed by many of his friends that even whilst under the influence of the greatest warmth he had not deviated in the slightest degree from the hypothetical argument in which he defended himself from the letters ascribed to him.

And in candour he humbly submits to your Majesty that the hypothesis of his defence might easily have induced persons not conversant with the English Language to think him the Author thereof, and that had he been tried by a Jury of his Country they might have suspected him to be so, but would not have returned a verdict on suspicion whilst they had sworn to find "according to the evidence."

Wherefore he humbly prays that your Majesty will take the subject into your Royal consideration, and allow your Petitioner to prove that he was tried by men interested in the case, that they did not understand the language he spoke, that the Secretary made a false report of his expressions, that illegal impediments were put in his way, that Justice was denied him, and that he had in no wise a fair trial.

He further humbly prays that he may be heard by Counsel

learned in the Law before your Majesty in Council to shew that in the only Court where English is spoken and understood he was denied a hearing and his case rejected (altho' it is the indisputable right of all your Majesty's liege subjects) by the Governor who acted as Judge in a case wherein he was the prosecutor of your petitioner.

He further humbly prays that your Majesty will be pleased to recal him from transportation and permit him again to be put on his trial before impartial judges and after refuting the Charge grant him such satisfaction on his unrighteous judges as in your Royal wisdom and justice your Majesty may be graciously pleased to deem meet. And he will ever pray &c.

(Signed) W. EDWARDS.

Cape Town, 18th June 1824.

[Original.]

Petition of MR. WILLIAM EDWARDS to HIS MAJESTY THE KING.

To the King's Most Excellent Majesty.

The Humble Petition of William Edwards of the Cape of Good Hope Respectfully Sheweth

That having received from England a sum of one thousand pounds in the Island of Mauritius when he was about to depart to the Cape of Good Hope he purchased a number of rixdollar Notes at the rate of four shillings each (paying for them in Spanish Dollars at four shillings and eight pence their value in that Island) in consequence of having known when at the Cape some years ago, that the rixdollar was worth that sum.

That being about to leave the Cape of Good Hope and still possessing near Three thousand five hundred rixdollars, he wished to remit part of it to England, and when he endeavoured for that purpose to procure payment of the rixdollars in specie he found no person was willing to pay them and was laughed at for requiring such a thing from the Government Bank.

He was therefore obliged to purchase a Bill for one hundred and fifty pounds from James Richardson Esquire and another

for thirty four pounds from one Captain Carnall at the increased rate of one hundred and seventy-five per Centum, so that it required two thousand five hundred and thirty rix-dollars to procure one hundred and eighty-four pounds for transmission to Messrs. Hammersley and Company Bankers in London, altho' he would have had five hundred and six pounds if the paper pledges were duly paid.

He further sheweth that wishing to retain in his possession a few Spanish dollars he purchased above two hundred at the rate of two rixdollars and six-eighths each, being equal to eleven shillings Sterling money for one Spanish dollar, by means whereof your petitioner is a loser of three hundred and ninety-two pounds out of three thousand and eighty rixdollars or six hundred and sixteen pounds.

Your petitioner further humbly sheweth that feeling this loss and considering how it could be remedied to him he caused enquiry to be made into the history of those paper pledges in order to enable him properly to seek and find redress, from which enquiry he hath learnt that they were issued at various times by the Government of this Colony.

He hath also been informed and believes that when the English captured the Cape in 1806 there were then about one million and a half of rixdollars in circulation with a considerable sum in specie in the Colonial Treasury equal to the liquidation thereof, but that their number is now more than doubled, the whole of the specie dissipated, and the rixdollar hath daily and progressively decreased in its value since the year 1814 when Lord Charles Somerset assumed the administration of this Colony, and as it seems now an asserted fact that no person nor any fund is liable to the payment of these papers it becomes necessary that Your Majesty should adopt measures to restore the public confidence and prevent the general ruin which must inevitably involve all who have money or property in the Cape of Good Hope.

Your Petitioner further humbly sheweth that altho' a very safe and simple remedy may be applied to this evil it is not likely to be done whilst it is the interest of all who have the power to redress it to lengthen its continuance and whilst they who have the wish or the talent to cure it are sedulously excluded from all share in the Government.

Your Petitioner humbly submits that the Governor and many of his family and friends in this Colony are paid their Salaries in Sterling money amounting to £25,687 10s. per annum, wherefor they procure rixdollar pledges, a debt of your Majesty's Government which must be redeemed with the sum of £70,640 12s. 6d. Of this sum the Governor's nominal pay is £10,000 per annum, whilst his real salary is £27,500. The Collector of Customs whose nominal salary is £1000 per annum being created Port Captain (with a deputy paid by Government for doing the duty) receives payment in rixdollar notes which must be redeemed with a sum of £4207 10s., and several others in the same exorbitant proportion.

Further your Petitioner humbly submits that of the three millions of rixdollars in circulation a considerable sum hath been advanced by order of the Governor to several of his needy friends, for which an enormous annual expence is incurred in the support of an establishment for two Government Banks altho' money transactions are best managed by rich individuals and would be so here if Government did not monopolize nearly every profitable profession in this Colony. Banking, Surveying, Conveyancing, transferring Slaves, Printing, and Auctions, are all done by Government to the injury of numbers with little profit to itself, but if all who by favor have procured money on loan from the Government Bank were compelled to repay the same, and many useless Government Farms and Establishments sold, the number of rixdollars would be considerably diminished, (and as your Majesty's Government is pledged to the payment of the whole amount), if the remainder were liquidated with English Coin, which is no more than an act of Justice, it would enable the Merchants to redeem the debt now due to the Mother Country, leave a circulating medium of nearly £50,000 in the Colony, and by paying the Troops in Coin (at about one third their present cost) paying the sterling money salaries with ready cash, decreasing the rixdollar pay two-thirds on paying them in coin, such an enormous saving in the Colonial expenditure would be made as that the taxes would decrease, Commerce would flourish, your loyal subjects be contented and happy, and those who were about to leave the Colony would not, like your Petitioner, be obliged to lose £392 out of £616.

Your Petitioner does not pretend that the plan now suggested by him is the best or only one that could be adopted but he is convinced that if there be a better it would be immediately found were Your Majesty pleased to order that all those of your Servants who are now paid here in sterling money should like your petitioner, receive the rixdollar at its nominal value reckoning five thousand rixdollars a payment for one thousand pounds.

Wherefore Your Petitioner most humbly prays that Your Majesty will be graciously pleased to cause inquiry to be made into the loss of Your Petitioner thro' the bad faith of this Government and let him be indemnified for the same.

And he will ever pray &c.

(Signed) W. EDWARDS.

Cape Town, 18 June 1824.

[Original.]

Letter from MR. WILLIAM EDWARDS to EARL BATHURST.

CAPE TOWN, 18th June 1824.

MY LORD,—With feelings easily provoked and very acrimonious, whilst under the impulse I must admit that I have been induced in this Colony to do some things which I most sincerely regret, but my Lord, respect for the sentiments which led me astray should have pleaded my excuse and taught my persecutors not by further irritation to provoke me to desperation fatal to themselves and to me.

I was here a humble Notary, thought to possess some talent, known to have honesty sufficient for my duty and the Courage of a Lion in its discharge, and employed by a merchant to complain to the Lords of the Treasury against the cruel conduct of the Collector of Customs towards an unfortunate race of men entrusted by our Sovereign to his care. I was prosecuted for a libel in my complaint, this induced my adversaries to insult my loyalty, insult led to retaliation, retaliation to persecution and condemnation without evidence.

The Governor was my prosecutor, he has been my judge,

and every stage of the proceedings has been marked with injustice and partiality. I therefore make bold to apply to your Lordship to procure a revision of the proceedings in the confidence that no other step may be necessary.

I also submit to your Lordship a petition to His Majesty for the redress of an injury (or rather loss) I have sustained in the depreciated currency of this Colony.

As I am subjected to a very close and disagreeable as well as unhealthy imprisonment, I trust your Lordship will take an early opportunity of submitting my case to His Majesty.

I have &c.

(Signed) WILLIAM EDWARDS.

[Copy.]

Letter from J. T. BIGGE, ESQRE., to LORD CHARLES SOMERSET.

CAPE TOWN, 19 June 1824.

MY LORD,—I have been favored by your Lordship with the Perusal of the accompanying Memorial addressed by the Reverend Mr. Geary to your Lordship, in the course of which, after stating several supposed grievances, I perceive that he appeals to certain opinions that, he says, I expressed to him at the several Interviews that Major Colebrooke and myself held with him during our residence at Graham's Town; as I observe that the Reverend Mr. Geary has in more than one Instance quoted my observations incorrectly and as I am certain that he never received any permission from me to quote them at all, I shall take the liberty of submitting them to your Lordship with the corrections or contradiction that they require, and I shall also with your Lordship's permission avail myself of an early opportunity of endeavouring to correct the recollection of Mr. Geary respecting the observations that I really did make.

The Reverend Gentleman states "that I did not scruple to declare that it was impossible to speak in terms sufficiently bad of Wathall, the late Under Sheriff of Graham's Town."

I certainly was impressed with an unfavourable opinion of him after I had heard and read the declarations of Mr. Geary's witnesses, but I am certain that I did not use the expression that he imputes to me when speaking of Wathall, but I rather think that I applied it to the Constable Blackbeard, who, in exposing Wathall's guilt, found himself under the necessity of acknowledging his own, as well as of disclosing the motives that had led him at first to suppress and afterwards to divulge the evidence that he gave against him.

2ndly. Mr. Geary has stated that "I informed him that I entertained no doubt of Wathall's guilt, that he ought to be punished, and that in England I did not know a greater crime than insulting a Clergyman."

I must beg leave in answer to say that I never did deliver any such opinions to Mr. Geary.

Lastly, I am stated to have declared, when speaking of the present position of the Reverend Mr. Geary's house, that "it was extremely cruel that a Clergyman should be elbowed by such persons." I certainly expressed regret that so good a residence as that of Mr. Geary should be exposed to the noise and disorders of a canteen, but I certainly said nothing of Mr. Geary's other neighbour Mr. Wathall, of whom, as a neighbour, I had not heard him then complain.

Your Lordship will I am sure excuse the liberty I have thus taken in commenting upon a Statement that was not perhaps intended by its author to have been submitted to my perusal, but as the object of Mr. Geary in making the references to my authority that he has done, cannot be misunderstood, I felt that I could not do less, both in justice to your Lordship and to myself, than endeavour to shew to what extent Mr. Geary's Statement of my opinions had been, however unintentionally, exaggerated. I have &c.

(Signed) JOHN THOMAS BIGGE.

[Copy.]

*Letter from MR. CHARLES D'ESCURY to the COMMISSIONERS
OF ENQUIRY.*

INSPECTOR OF LANDS AND WOODS OFFICE, 21st June 1824.

GENTLEMEN,—Placed in so extraordinary a Situation as I find myself, from having been actuated by no other motive than a sense of duty, feeling confident to have performed that duty discreetly, honestly and truly ; to have performed it at the command of the highest authority, and then to be put upon my defence after having done so, is a situation as unaccountable as unexpected ; and as arduous as it is painful and difficult to pursue a proper line of conduct in the dilemma in which it places me : such in which my feelings, so deeply wounded, shall not betray me to forget either what is due to the dignity of any high authorities, or due to myself in not departing from that respect no one more readily than myself yields to them. Still, Gentlemen, it is necessary that I should support my character, so severely and undeservedly attacked, by supporting the facts I have advanced, for which purpose I beg to present to you the annexed Memorandum, still drawn up in the same spirit, and upon the same principle all my other Papers are, that of stating facts only, without drawing any inferences from them, or adding any comments of my own ; and adducing circumstances in support of them, so far only as these are necessary, and capable of that effect. As to-morrow I shall again have the honour of attending your office, I prefer this mode of stating what the Memorandum contains to doing so verbally *in presence of the Governor's Aide de Camp*, on which account I hope you will excuse my troubling you with this additional paper, the necessity of which in every respect I sincerely regret.

I have &c.

(Signed) CHS. D'ESCURY, Inspector of
Government Lands and Woods.

Memorandum.

Having stated in the conveying letter accompanying this Memorandum what induced the Inspector to lay it before His Majesty's Commissioners, he will beg leave to observe as follows: The case now under examination by His Majesty's Commissioners may properly be divided into two general heads, viz.

The 1st. The Grant of Land to the Widow Louw, or Redelinghuys her second husband, brought forward by the Inspector in reference to the general subject of the distribution of the soil throughout the Colony, on which distribution, from the partialities, irregularities, and other circumstances that have attended it, the Inspector has recommended a greater check to be put.

The 2nd Is a *totally distinct subject*. That of the Agricultural establishment of the Groote Post, brought forward in reference to the mal-application of 25,308 Acres of Land, wastefully occupied by that establishment, through the mismanagement of the same, on account of which the Inspector has recommended the breaking up of the establishment, and the applying of the Land to purposes of more general utility. In the course of the discussion in which the Inspector has alluded to the "observations" His Excellency's Horse dealings had excited, and as a case in point the sale of the horse "Sorcerer" for the "enormous" price of Rds. 10,000, was there adduced as, among many other instances, having furnished matter for such observations, &c.

† These two *distinct* subjects, from the "accidental coincidence" of the same person who had bought the Horse having also obtained the grant of Land alluded to under the first head, and both having distinctively at different times, and on different occasions been noticed in the Inspector's papers, as above shown, were nevertheless combined in My Lord Bathurst's Dispatch, and construed into one specific and unreserved charge, said to have been preferred by the Inspector against the Governor, with the additional stigma gratuitously attached on the Inspector's character, of having preferred this assumed charge from the base motive of Revenge. The Inspector protested against the construction so put by others,

to be charged on *him*, and he imagines to have unanswerably refuted this charge as well as the motive in the letters he had the honour of addressing to His Majesty's Commissioners on the 29 and 31 May last. His Majesty's Commissioners were pleased to say, to abandon these two grounds, and to declare that the examination about to be entered upon, should have no reference to My Lord Bathurst's view of the subject, in those respects ; that the Inspector would be simply examined *as a Witness*, and that the subject to be investigated should be, as the note of Summons expresses it, the Grant of Land made by His Excellency to the Widow Louw and to Redelinghuys.

On the 2nd instant the examination took place, but it was *in the presence of His Excellency's Aide de Camp*, which carried with it a very unusual appearance, and altho' of little consequence to the Inspector himself, it must unquestionably have the effect of intimidating, or influencing many others also to be examined on this subject, who seeing this Aide de Camp on the part of the Governor, *and no one on the other side*, will feel as speaking before the Governor himself, and be afraid. The Inspector was also closely questioned on those very points that immediately led to My Lord Bathurst's positions. These circumstances having produced a very unpleasant impression on the Inspector's mind, he felt induced to ask for an explanation ; that explanation has however not entirely removed the impression, for altho' the same view of not acting upon the constructions contained in My Lord Bathurst's Dispatch was expressed, as respects H.M.'s Commissioners, the Inspector was told that it must still rest with His Lordship to abandon that construction or *not*, and thence the consequences held out in the first instance, as awaiting the Inspector's not substantiating those constructions, remain in Terrorem suspended over him ! And as to the presence of the Aide de Camp, it is with deference the Inspector expresses to retain the opinion of its inexpediency, for the reasons above noticed ; but of this H.M.'s Commissioners are the best judges, and the mode of proceeding is necessarily at their own disposal.

The Inspector now begs leave to submit, that from what passed at his examination, and what he has since understood, it appeared to him to be the object to show, from the pedigree, size, shape, and other merits possessed by the horse Sorcerer,

that the price paid for it was not "*enormous*," as he the Inspector had denominated it. Next that as to the "*observations*," also said by him to have been made upon the same, they were confined to *that price*, consequently that these observations must have been exaggerated, but that even such as they were, from the extraordinary merits ascribed to the Horse, they are altogether groundless, whence it would follow, that from the faculty shown to be possessed in England for constructing, the exercise of that faculty might be transferred from the *construction* there put upon the *bare facts* stated by the Inspector, to the *facts themselves*, which latter, after having undergone investigation here, might be brought into such a state of decomposition as to render them susceptible of being shaped at pleasure, and the Inspector might then be placed in a somewhat similar dilemma *upon the facts*, as it was intended to place him, in the first instance, *upon the constructions*, when he was called upon, as it were at my peril, to substantiate those *put by others* upon the facts !

The Inspector has under these circumstances felt it incumbent on himself to make some further inquiries respecting the said Horse *Sorcerer* and other matters, with no other motive however than to support his *facts*, which he trusts H.M.'s Commissioners will allow it is essential to him should not be shaken ; he wishes therefore to say, that whereas he had adduced the sale of the said *Sorcerer* as an instance only among *many others, and not as exclusively*, having occasioned observations of the nature the Inspector mentioned, such as detracted from the respect due to His Majesty's Representative, the endeavours to invalidate or depreciate that instance, which was given in illustration of another fact, which latter would thereby be also affected, the Inspector feels himself induced to support that instance by the following, with the outline of which he had long been acquainted, without having had any inducement to investigate the details, but which he has now done.

The particulars, the Inspector does not mean at this time to enter into (and he earnestly hopes that he may never have occasion to do so with respect to this or any other facts in his possession, *but for which however he is prepared*, but he only begs leave to acquaint H.M.'s Commissioners where, for their

own information, they can find those details ; they are in the accounts of the estate of the late Mr. Veyll, subsequently Durr, under the administration, first of Executors (viz. the Orphan Chamber) and Mr. Fleck's account of the estate, and now in the hands of the Sequestrator. There H.M.'s Commissioners will find in the year 1818, for Horse transactions paid to His Excellency the amount of Rds. 13,000, in part for the sale of a Stallion, (Kutusoff it is believed) at the price of Rds. 10,000, and another item for covering 60 Mares paid on His Excellency's account to Captain Underwood Rds. 3,000. This latter item the Inspector will have occasion hereafter to revert to when the Groote Post shall be under consideration ; the former being intended to support the Inspector's *object* in quoting the sale of the Horse Sorcerer, he will here briefly notice. It was a Horse necessarily inferior to Sorcerer, according to the character given of the latter, yet that comparatively inferior horse still brought His Excellency the same price of Rds. 10,000, with this disparity however between the two, that *Sorcerer* was delivered *alive* into the hands of the purchaser, while poor Kutusoff died when still in His Excellency's possession, yet the money was paid, but never refunded, *not even in part, as the accounts will show*. If therefore the case of *Sorcerer* is not sufficiently in point to justify the Inspector's quoting it with reference to his remarks and the causes of public observation &c. on His Excellency's Horse dealings, the case of *Kutusoff* will surely be allowed to be so ; and if these public observations themselves were groundless, as to the former, they will doubtless be justified as to the latter, and the Inspector's sole and only object in quoting *Sorcerer's* Sale having been that of *illustration* of the causes of the observations before alluded to, which, should that illustration as to Sorcerer be deemed insufficient, Kutusoff will then be relied on for that purpose.

The Inspector trusts that should His Majesty's Commissioners either on the present occasion or otherwise, be induced to look into the Estate of Veyll and Durr, and there find the particulars of the Horse alluded to, in *their different bearings*, they will of themselves admit that if the Inspector had really intended to bring forward the case of *Sorcerer* as a *charge*, in the manner ascribed to him, independent that he would then have placed it at the head and front of the Hantam transactions, where in

that case it would have belonged, he would surely not have left dormant the case of *Kutusoff*, with which he was from common report acquainted ever since it took place.

The Inspector wishes further to add, that from his late inquiries it is not clear to him that the Rds. 10,000 was the original selling price put upon *Sorcerer* ; but that he apprehends that it was increased to that Amount in order to cover losses by death on the passage, which His Excellency had experienced in his then last, or one of his last importations, and if so, it would somewhat change the nature of that transaction, in how far it would improve it, or otherwise, is not the Inspector's object to investigate.

The Inspector laments to cause any additional trouble to H.M.'s Commissioners, whose labours are already so various and arduous, and he regrets still more to have been forced to the necessity of adducing these additional facts, but he owes to the Country not to abandon, under any circumstances, however threatening to himself, the line he has taken, and he owes to himself to support whatsoever he has, on the spur of duty, thought necessary to advance. Under these considerations, and from the various explanations the Inspector has given in this case, and those he is prepared to give on every other, he still looks forward to the known honor and rectitude of My Lord Bathurst's character, ultimately to obtain from His Lordship that sanction he knows so well to bestow, and which is the hope, as well as the desert, of every honest public Servant, in the Department over which His Lordship presides.

(Signed) CHAS. D'ESCURY,
Inspector of Govt. Lands and Woods.

Return of all Commandos or Expeditions against Bosjesmen, as far back as the same are recorded at the Drostdy of Graaff-Reinet.

Date of the Expedition.	Date of the Reports of the Landdrosts.	Objects and Causes of the Expeditions.	Number of Bosjesmen.		
			Killed.	Wounded.	Taken Prisoners.
1813.	April 27	Pursuit of stolen cattle . . .	4	—	—
1816.	June 16	Pursuit of Kraals which had committed various depredations and murders . . .	20	—	24
July .	Aug. 1	As above	—	—	—
Nov. .	Dec. 31	Ditto	—	—	56
1817.					
January	Jan. 16	In pursuit of stolen horses . .	10	—	3
1820.					
August .	Sept. 21	As above	19	—	58
Nov. .	Dec. 6	In pursuit of stolen cattle and horses	11	—	—
1821.					
Nov. .	Dec. 20	In pursuit of stolen oxen . .	1	—	—
1822.					
February	Feb. 14	In pursuit of Kraals which had committed various depredations and murders . . .	—	—	—
—	March 7	As above	12	—	2
April .	May 9	In pursuit of stolen cattle and horses, &c.	4	—	29
—	June 5	As above	not known	—	19
May .	—	Ditto	—	—	15
October	Nov. 21	Ditto	1	1	—
1823.					
January	Jan. 30	In pursuit of stolen sheep and goats, &c.	5	—	—
February	Feb. 27	In pursuit of stolen horses . .	—	—	9
March .	April 10	As above	—	1	—
Nov. .	Dec. 11	In pursuit of stolen sheep, &c. .	2	—	8
1824.					
January	Feb. 25	In pursuit of a Kraal which had committed murders and stolen sheep	—	1	9
—	—	As above	4	—	48
—	April 30	In pursuit of stolen sheep . .	not known.		
March .	—	In pursuit of robbers . . .	4	—	—

According to an old custom, the prisoners were distributed among the inhabitants, to try to bring them to peaceable habits, as fully detailed in the landdrost's letter to the colonial secretary, dated 5th June 1822; so that most of them have returned to their kraals, and the remainder are living with the farmers in the same way as their Hottentot servants. In cases where the real perpetrators of murders could be discovered they were tried by the colonial laws, and on the 9th of January 1823, certain regulations were established by Government relative to the Bosjesmen.

Graaff-Reinet, June 22nd 1824.

(Signed) A. STOCKENSTROM.





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Author Theal, George McCall (ed.)

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